

MEETING  
STATE OF CALIFORNIA  
THE RECLAMATION BOARD  
TRLIA SUBCOMMITTEE

YUBA COUNTY GOVERNMENT CENTER  
915 EIGHTH STREET  
MARYSVILLE, CALIFORNIA

TUESDAY, SEPTEMBER 11, 2007  
1:00 P.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

SUBCOMMITTEE MEMBERS

Mr. Butch Hodgkins, Chairman

Mr. Ben Carter, Member

Ms. Lady Bug Doherty, Member

STAFF

Mr. Jay Punia, General Manager

Ms. Nancy Finch, Legal Counsel

Mr. Stephen Bradley, Chief Engineer

TRLIA

Mr. Paul G. Brunner, Executive Director

ALSO PRESENT

Mr. Dan Logue, Yuba County Board of Supervisors,  
Supervisor 1st District

Mr. Scott Shapiro, Downey Brand

Mr. Ric Reinhardt, MBK Engineers

Mr. Bob Morrison, Bender Rosenthal, Inc.

Mr. Thomas Rice, Rice River Ranch

Ms. Frances Hofman, Hofman Ranch

Mr. Tom Eres, Hofman Ranch

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Rex Archer

Mr. Dan Walker, GEI Consultants

Mr. Alberto Pujol, GEI Consultants

Mr. James Pearson

Mr. Thomas Foley

Mr. John Mitchell

Mr. Al Franzoia

Ms. Deana Ellis

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## INDEX

	PAGE
1. Roll Call	1
2. Approval of Agenda	7
3. Status and Review of Three Rivers Levee Improvement Authority's Phase 4 Feather River Repair Project - Segment 2(Setback Levee)	
A. Status of TRLIA's land acquisition for the levee setback alignment	3
B. Proposed alignment of the levee setback	14
C. Update to Proposition 1e Grant and Local Share	20
Public Comment	56
Adjournment	90
Reporter's Certificate	91

## 1 PROCEEDINGS

2 CHAIRPERSON HODGKINS: My name is Butch Hodgkins.  
3 I'm the Chair of the Subcommittee of the Reclamation Board  
4 working upon the TRLIA project. I want to go ahead and  
5 start this meeting. Ben Carter will be joining us, I  
6 think, shortly.

7 Couple of ground rules. I think that it's  
8 important to understand, normally we have a court  
9 reporter, but today we were unable to get one, so the  
10 meeting and record is going to be made by tape. What that  
11 means is if you wish to comment at some point, you have to  
12 come forward and use the podium so that that microphone  
13 will record your voice. We cannot let you comment from  
14 the audience.

15 And just on the matter of comments, we're going  
16 to try to stick to the agenda where in effect this is a  
17 report from Three Rivers to the Subcommittee, so they're  
18 going to make their presentation. After they conclude, I  
19 think Board members and Board staff want an opportunity  
20 for questions, and then we would take comments on whatever  
21 it is that they have discussed.

22 And then at the end of the meeting, we will hold  
23 a public comment session where we will take comments on  
24 anything that has to do with the Reclamation Board, but  
25 it's important for you to understand that the Board

1 members who are here because of Bagley-Keene, which is our  
2 equivalent of the Brown Act, cannot respond in any way to  
3 the public comments. We're just not allowed to.

4 I always have trouble keeping my mouth shut, the  
5 attorney's going to help me. And if you want to, after  
6 the meeting, I would at least be willing to tell you as  
7 one member what I think about whatever your comment was if  
8 you hang around. Okay?

9 So with that, I'd like to begin. I guess the  
10 first item is a roll call.

11 GENERAL MANAGER PUNIA: For the record, except  
12 for Board Member Ben Carter, the rest of the Board members  
13 of the Subcommittee, Butch Hodgkins and Board Member  
14 Lady Bug are present.

15 CHAIRPERSON HODGKINS: Okay. Are there any  
16 comments from the other committee members and the staff on  
17 the agenda?

18 Yes.

19 GENERAL MANAGER PUNIA: I just want to clarify  
20 that no decision will be made in the Subcommittee. This  
21 is just for information gathering purposes only.

22 CHAIRPERSON HODGKINS: Thank you, Jay. I should  
23 have said that, but you're absolutely right. Okay.

24 Item 3 is Status and Review of Three Rivers Levee  
25 Improvement Authority's Phase 4, Feather River Repair

1 Project, Segment 2, Setback Levee.

2 We have this divided into three areas. The first  
3 area is the status of TRLIA's land acquisition to the  
4 levee setback alignment.

5 Can I turn that over to you, Mr. Brunner?

6 MR. BRUNNER: You can turn over the topic, right.

7 CHAIRPERSON HODGKINS: Yes, it is turned over to  
8 you.

9 MR. BRUNNER: All right. Well, thank you.

10 First, I'd like to thank the Subcommittee for  
11 being here in Yuba County. Welcome, glad you came. We  
12 have three, I think, good topics to go through. Look  
13 forward to the interaction.

14 Before we start on that one topic, I'd like to do  
15 an introduction of our team. Dan Logue, vice chairman of  
16 the TRLIA Board is here, along with Mary Jane Griego from  
17 the TRLIA Board will be here a little bit later on to  
18 participate. We have an advisory committee over the  
19 setback, and they are the two members on that advisory  
20 crew. Scott Shapiro, general counsel, is also with me  
21 from TRLIA. Ric Reinhardt, program manager, and Bob  
22 Morrison from real estate, our real estate program manager  
23 is here.

24 During the discussion today, it's our conclusion,  
25 or as we led up to this, is this is really setting the

1 stage for the encroachment permit. That as far as I  
2 understand now will be held in the October time period,  
3 probably in your regular session. We're still in dialog  
4 with your staff over that, so -- but this is really  
5 building the stage, answering questions for you as to how  
6 we're proceeding and what we're doing in that regard.

7 With that, what I'd like to do is turn to Bob.  
8 Bob is going to go over the real estate and give an update  
9 on that for you.

10 CHAIRMAN HODGKINS: Thank you.

11 MR. MORRISON: Thank you, again. My name is Bob  
12 Morrison, I'm the right-of-way manager for Three Rivers.

13 There are three items that are applicable to this  
14 update that we provided to the Subcommittee members. They  
15 include the status of the Three Rivers land acquisition  
16 for setback levee alignment, discussion of paper. This is  
17 similar to what was handed out at the last Rec Board  
18 meeting.

19 Here's a parcel-by-parcel status spreadsheet  
20 that's included, and then there is a 11 by 17 map. It can  
21 also be found in the back of the room. This map  
22 highlights the project and the various reaches that are  
23 applicable to the right-of-way phase.

24 With that, the first slide is a general overview  
25 of the project. We are acquiring roughly 1,750 acres, and



1 that is -- 206 are part of the levee footprint, and the  
2 remaining 1,543 are part of the setback area itself.  
3 There are 37 parcels affected by the project and 25 owners  
4 that we are working with. There will be five relocations  
5 as part of the project, and we are beginning that process  
6 as we speak.

7           So our right-of-way strategy is to work closely  
8 with the property owners to determine their needs and  
9 mitigate the project impacts. And this has taken a little  
10 while, and we've listened both to this Board and the  
11 property owners to try and refine the project.

12           Some of the examples of working closely are with  
13 the Rice River Ranch. This is Parcel 97 on the map, right  
14 along Plumas Avenue, in the red, so let me just highlight  
15 that real quick. It's right in this area right here.

16           We've had some very open and frank dialog with  
17 them, and it's been very, very helpful for us. It's  
18 really been an eye opener. It brought this thing to the  
19 table to understand the impact of this project.

20           As of yesterday, we provided a proposal to the  
21 Rice River Ranch for consideration, and we are continuing  
22 to negotiate with them in good faith.

23           Other examples included meeting with the  
24 Nieschultz properties. That's found on Parcel Number 123  
25 and 128 in the southern reach, down in this area.

1           One of the first things we do is the appraiser  
2 goes out with the engineering, and we've started to bring  
3 the engineer out in the field to say here's what the  
4 effect of your project is with the property owner, and  
5 have the property owner right there. Through that  
6 analysis, we've been able to actually shrink the footprint  
7 and really refine the necessity of the project and reduce  
8 the impacts to the property owner.

9           We met with Mr. Foster. And he owns Parcels 116,  
10 117, 118, 126, 129, 130 and 136, all in this area right  
11 through here. And he's got a number of questions. But  
12 one of the key ones was he wants to make sure the number  
13 of lots after the project equal the number of lots before  
14 the project.

15           So we sat down with the County surveyor, that's  
16 not within our control, and we were able to sit down with  
17 the County surveyor to facilitate the discussion. And  
18 it's been an open discussion, and the surveyor's been very  
19 helpful.

20           So the last two items are -- we met with  
21 Mr. Terry. This is right up here in Parcel 94, right  
22 along Ella. They have a convalescent home, and their  
23 biggest concern is security. And sitting down with them  
24 to say, okay, where do you need a fence? So we were able  
25 to compensate them for fencing that can be put in during

1 or after the project if necessary.

2 And then last is the Anderson parcel. The  
3 Anderson parcel is Parcel 107, right here, where -- this  
4 is a little bit of a change from what's in the handout,  
5 but we were able to shift the alignment slightly to miss  
6 some family trees that were very important to them.

7 So we are listening to the property owners, and  
8 massaging the initial designs to reduce our impacts along  
9 the alignment.

10 MR. BRUNNER: Bob, before you go off that next  
11 slide, I actually would like to say thanks to the Rec  
12 Board staff, Dan Fua and Butch for your personal  
13 interaction with the Rice family. I think that helped to  
14 do that. So thanks, Dan, for coming out and helping with  
15 that, and hopefully it is a very good result.

16 MR. MORRISON: On to the next slide where some of  
17 the other right-of-way strategies we're bringing forward  
18 are taking what we heard from the property owners and  
19 going back to various agencies, including Rec Board staff,  
20 and saying, can we minimize our impact by allowing  
21 additional agricultural uses in the toe access corridor.

22 So right now the Rec Board staff requires a  
23 50-foot toe access corridor that's clear. But we've been  
24 able to work with Dan and see, and say is that -- can we  
25 allow, can we purchase the 50 feet and then allow an

1 easement or agricultural in at least 35 feet of that area,  
2 and so far so good. So we may be coming back to the Rec  
3 Board itself to amend the policy of a 50-foot toe access  
4 corridor clear. We may allow agricultural operations in  
5 that area.

6 SUBCOMMITTEE MEMBER DOHERTY: So in that  
7 50 feet, of 30 feet there could be a row of trees?

8 MR. MORRISON: Correct. Actually, out 25 feet  
9 there could be a row of trees. We may be able to,  
10 depending on spacing, may be able to fit one or two rows  
11 of trees in that area. And that's something that we would  
12 be approaching the Rec Board to finalize that and get your  
13 approval for that, because that's the Yuba style of  
14 necessity, or at least that has through time.

15 And again, our goal is to treat property owners  
16 fairly. But one of the biggest concerns right now is that  
17 offers are pending the final funding clarifications  
18 involved, and the team will verify that, but it was the  
19 Three Rivers Board made a statement that we don't want to  
20 make offers if we don't have money. And that was a big  
21 statement. And at this point, we're almost there, from  
22 what I understand, so we should have formal offers out on  
23 the street to the majority of the property owners within  
24 the next few weeks.

25 MR. BRUNNER: To clarify, we have made offers and

1 the offers that we have made, we do have the money, so  
2 that the offers were made with money in hand to do that.  
3 We have other offers on hold until we get the --  
4 consummate the EIP and bring that Early Implementation  
5 Project.

6 SUBCOMMITTEE MEMBER DOHERTY: So let's say that  
7 you've made some offers now, some you haven't made because  
8 you're waiting, so what happens to those offers that you  
9 have made and then additional funding doesn't come  
10 through? What about the additional properties that you  
11 would need to acquire?

12 MR. MORRISON: Well, at that point, we would  
13 then make a decision as to what do we do with the offers.  
14 We've only acquired one property so far, and we'd have to  
15 deal with that as to what do we do with that property. So  
16 we'd be in a holding situation where we'd have to unravel,  
17 particularly if the project did not go forward. But our  
18 hope and anticipation is that the project does go forward  
19 with the funding.

20 MR. MORRISON: So we are acquiring the  
21 right-of-way in five reaches. The first reach is in blue  
22 on your handout. So it's above, north of Ella, right in  
23 here. And there are 8 properties covering 313 acres in  
24 this area.

25 Then the next reach is from Ella down to

1 Anderson. And there are 7 properties in this area  
2 covering 884 acres.

3 Reach 3 is south of Anderson. And there are 17  
4 properties covering 416 acres in that region.

5 Reach 4 is really the setback area. It's this  
6 area right in here. And it's directly impacted by the  
7 levee itself, but they will be in the floodplain after the  
8 project. And this is where a majority of the relocations  
9 are going to occur.

10 And then Reach 5 are potential borrow sources.

11 Right now, the goal of the project is to borrow  
12 dirt. We need roughly four million cubic yards of dirt.  
13 In an ideal world you'd just take it from this area.  
14 Unfortunately, the Army Corps of Engineers doesn't like  
15 the dirt that's there, in laymen's terms. And so we had  
16 to work outside the footprint of the levee. So we're  
17 negotiating with a property owner from this area, to  
18 potentially find some borrow for the levee itself. And  
19 those negotiations are going well.

20 SUBCOMMITTEE MEMBER DOHERTY: And so within less  
21 than a mile, you're finding a soil type that is better  
22 than what's inside the footprint.

23 MR. MORRISON: I'll let Ric and/or others discuss  
24 that; but I believe in summary, yes.

25 MR. REINHARDT: There are varying soil conditions

1 all through this area, and we have not completed our  
2 testing of soil in the setback area to confirm how much of  
3 that material that we can use. We know that we have needs  
4 above and beyond the setback area that we're going to be  
5 able to utilize. So we're looking at these other sources  
6 to augment what we know is the minimum need we'll have,  
7 and then if there's a greater need, then we'll use that as  
8 well.

9 MR. BRUNNER: I have to clarify a little or add  
10 to it.

11 Our intent is to use as much soil as possible in  
12 the setback area, and there's some soil augmentation  
13 approaches that we're looking at, and have as little  
14 burden as possible outside. It may become that we have to  
15 go outside of that setback area, but our -- we would  
16 stress internally to try to stay within that setback area  
17 so we don't have huge impacts outside.

18 SUBCOMMITTEE MEMBER DOHERTY: But when you were  
19 planning this setback levee, the reason it was set- -- one  
20 of the reasons it was set back where it was was because of  
21 the inadequate soils that it was going to be placed on.  
22 So how can they go from inadequate to adequate for a  
23 levee?

24 MR. REINHARDT: The difference is in foundation  
25 material. What we're looking to get off of is the sands

1 and gravels --

2 SUBCOMMITTEE MEMBER DOHERTY: Right.

3 MR. REINHARDT: When we build the levee, we build  
4 it out of a clay, silty, clay material, and the materials  
5 that we're looking for to build the levee have much more  
6 stringent specification requirements than what the  
7 foundation condition needs to be.

8 So is your question that the area has all -- the  
9 geographic or the geology of the area, of the setback  
10 area, differs significantly along the alignment in both  
11 east, west, north, south, and so there are areas with good  
12 soil and areas with bad soil. It's not a uniform  
13 condition.

14 The existing levee alignment is generally almost  
15 uniformly on poor, sandy, gravelly soils that we're trying  
16 to get off of; but as we move to the east, the conditions  
17 differ, where we have some locations where it's really  
18 good soil and other locations where it's still bad  
19 foundation.

20 SUBCOMMITTEE MEMBER DOHERTY: You gave us that  
21 map that had the soil types listed on it.

22 MR. REINHARDT: Right, and I have that in my  
23 presentation.

24 SUBCOMMITTEE MEMBER DOHERTY: Okay.

25 MR. MORRISON: On to the last slide. I wanted to



1 give you a status on a reach by reach basis. Again, the  
2 northern reach is above Ella. We will have access or  
3 expect to have access by mid-October to all the parcels  
4 north of Ella, and that's where construction will begin.  
5 We've had a good, open dialog with the property owners in  
6 that area.

7 In Reach 2 we're continuing to negotiate with two  
8 of the property owners, but there are five property owners  
9 in this reach that we haven't been able to make offers to  
10 pending the funding.

11 And then the other reaches, again, we're waiting  
12 for funding to make offers. But we're continuing to meet  
13 and discuss the necessity of the project or the  
14 engineering of the project to make sure that we minimize  
15 our impact.

16 So with that, I'll open it up to any question and  
17 answer.

18 SUBCOMMITTEE MEMBER DOHERTY: I have one more  
19 question.

20 You say relocations just beginning. Are you  
21 relocating these families, or just what do you mean by  
22 relocation?

23 MR. MORRISON: There's a whole part of the law  
24 that basically says you have to relocate -- if they are  
25 affected by the project, we are required to relocate them

1 to like kind facilities. So, yes, we essentially become a  
2 real estate agent. They are entitled to various moving  
3 expenses and relocation expenses to make sure that they  
4 get equal to what they have now.

5 If there are any questions, please let me know.

6 CHAIRMAN HODGKINS: Okay, I have a couple of  
7 cards, and the cards are from Thomas Rice and Frances  
8 Hofman. And both are wanting to comment on Item 3.

9 I don't want to preclude you from commenting now,  
10 and certainly you may have them do that, but I think in  
11 many ways it might be more helpful if you'd let us get  
12 through the rest of the presentation here and then take  
13 your comments at the end.

14 MR. ERES: I'm quite amenable to waiting to the  
15 end.

16 CHAIRPERSON HODGKINS: Okay.

17 MS. HOFMAN: Provided the people that spoke will  
18 be here to answer the questions, not like the meeting when  
19 they left.

20 CHAIRPERSON HODGKINS: We will not let them leave  
21 until we adjourn.

22 So turn it back over to you on Item 2.

23 MR. BRUNNER: All right. Item 2, Ric Reinhardt  
24 will present on alignment.

25 MR. REINHARDT: Ric Reinhardt, Three Rivers

1 program manager.

2 We presented the overall project and objectives  
3 to the Subcommittee and the Board members on several  
4 occasions, so I'm going to cover this at a high level, and  
5 if you have questions, then please feel free to interrupt  
6 me.

7 The setback levee alignment is 5.7 miles long.  
8 It replaces 6.2 miles of existing levee. It starts at the  
9 upstream end just west of the Yuba County Airport, and  
10 goes downstream to Star Bend.

11 The proposal I have selected to provide  
12 substantial water surface reduction benefits by widening  
13 the floodway consistent with the widths that are just  
14 upstream and downstream of the project area. It reduces  
15 the 200-year flood stage by a maximum of 2.9 feet just  
16 upstream of the setback and 1.4 feet in Marysville, Yuba  
17 City area.

18 Greater widths -- also not -- by going with  
19 greater widths than what we selected, you start to have a  
20 diminishing return on the water surface reduction  
21 benefits. We really worked hard to optimize the maximum  
22 amount of stage reduction we could get with testing  
23 different widths.

24 This is the slide we talked about earlier, with  
25 Member Doherty. The setback alignment avoids historic

1 riverbed features and the source of primary seepage  
2 following the 1986 and 1997 floods. The alignment must  
3 further refine the place of the new levee on topographic  
4 elevated areas formed by older more compacted soils in  
5 Modesto formation. Modesto provides a stronger, less  
6 permeable foundation, in the higher elevations as much as  
7 48 feet higher, also reduces the volume of levee material  
8 and costs. And I'll show that on the next slide.

9           The setback levee cannot be placed entirely on  
10 the Modesto formation due to impacts it would have on  
11 Feather River Boulevard, residential structures, and large  
12 agricultural business operations.

13           So this is the existing levee. This is the  
14 proposed alignment, and if it were shifted to the west,  
15 this shaded area is the amount of additional material and  
16 height that the levee would have to have. The increase in  
17 volume to the west would be anywhere from 32 to 68 percent  
18 during flood conditions. The increased levee's height  
19 also results in increased hydraulic loading on the levee  
20 itself, and increases other properties.

21           We spent a great deal of time working with the  
22 Rices on their concerns about the impacts on their  
23 operations. We had a meeting this last Friday. This is  
24 the alignment that we've been working on, and presented to  
25 the Board previously. We have earlier this year revised,

1 to take that parcel and reduce it by 90 feet.

2 We have a proposal now that makes a slight shift  
3 in the alignment of the levee just on the Rice parcel. So  
4 here's the alignment we've been using to date, up and  
5 downstream, and we shifted on their parcel 45 feet to the  
6 west. We worked closely with the Rices, and they'll have  
7 an opportunity to get up and state what that accomplishes  
8 for them.

9 We've also made some other -- proposed some other  
10 changes. There's a ditch, a drainage ditch that we have  
11 running through the parcel that we would line with  
12 concrete to reduce sat take. We've removed a levee ramp  
13 from the design. And then we proposed allowing vegetation  
14 in the toe access corridor to only have a 15-foot clear  
15 zone at the land-side toe of the levee.

16 Now, these changes have been flushed out at a  
17 staff level and with our engineers. They haven't been  
18 discussed with Reclamation Board staff, the DWR staff or  
19 the Corps of Engineers. Ultimately, they would need to  
20 agree to this as part of DWR's funding of the Early  
21 Implementation Project and the Corps of Engineers in  
22 approving the encroachment permit under G08 or 4408.

23 So that concludes my presentation.

24 SUBCOMMITTEE MEMBER DOHERTY: That's good that  
25 you were able to move that levee those 40 feet.

1 MR. BRUNNER: We were able to. We listened --

2 SUBCOMMITTEE MEMBER DOHERTY: Well, you were  
3 asked to tweak it in June, and so it's nice that you were  
4 able to tweak it.

5 MR. REINHARDT: We've done our best to find some  
6 middle ground in a way that will work for the Rices, and I  
7 look forward to hearing what they have to say today.

8 But I can't stress enough that, you know, this is  
9 our proposal, and I'd say it's Three River's staff and the  
10 Rices' proposal. It still needs to be blessed by our  
11 Board, your Board, the Corps and DWR.

12 SUBCOMMITTEE MEMBER DOHERTY: And it's still  
13 sitting on firm soil.

14 MR. REINHARDT: Five feet of the levee goes off  
15 the Modesto formation. The other 40 feet, 35 feet --

16 MR. BRUNNER: For all intents and purposes, it's  
17 still sitting on the good soil. The portion that swings  
18 out was already on the alluvial soil. It swings out just  
19 a little bit farther on the alluvial; but we stayed true  
20 to where we were. We went back out -- it was a concerted  
21 effort to do resurveying, working with the Rices, getting  
22 tree locations, pinpointing graphics and aerial photos  
23 of -- and they pinpointed out their mapping of their most  
24 key trees.

25 They have a very unique business. They

1 identified two rows of trees that were crucial. We were  
2 really, I think, only able to save one of those crucial  
3 rows.

4 The Rices have gone out of their way to work with  
5 us. And so we're appreciative of that. And they still  
6 need to review this and come back and say okay.

7 We were able to offer, from staff level, this  
8 proposal to them subject to approvals from my board, other  
9 boards in what we're asking for. So we have a little ways  
10 to go, but I think we have a good proposal on the table.

11 MR. SHAPIRO: The thing that I guess I wanted to  
12 add that I was struck by was we hadn't understood the  
13 uniqueness of their operation.

14 As I understand it, Bob Morrison, correct me if  
15 I'm wrong, but all of the other fruit operations north and  
16 south of here are bulk fruit operations. There's no  
17 difference from one row to the next row.

18 The Rices have a unique operation that every row  
19 is a different variety and it's designed to allow them to  
20 bring different fruit to market throughout the entire  
21 summer. And that was something we hadn't understood.  
22 Maybe it was something we didn't hear well enough on our  
23 part, but we hadn't understood it. And when we sat down  
24 with the Rices and they helped us understand it, we were  
25 able to realize the importance of particular varieties,

1 and also they understood the importance of us reaching  
2 something that was engineeringly superior. And that's the  
3 basis of what we have in front of us.

4 CHAIRPERSON HODGKINS: Why don't you go ahead and  
5 go on to the third item.

6 MR. BRUNNER: Okay. The third item is for the  
7 recent EI- -- Environmental Early Implementation Project  
8 and proposal from the State. And I'll ask Scott to  
9 explain that.

10 MR. SHAPIRO: Good morning again, Scott Shapiro,  
11 general counsel, Three Rivers Levee Improvement Authority.

12 It's my pleasure to present the third and final  
13 topic of our prepared presentation. And this is to update  
14 you on where we are with our 1E application. And I will  
15 share -- I'll preview this by telling you that this  
16 presentation will show a work in progress, and I'll  
17 explain why that is, but as with everything else, it has  
18 been our intent to keep the Rec Board fully informed of  
19 where we are with funding.

20 The great news is that we are significantly  
21 farther than we were last time. And if you like football  
22 analogies, I'd say we're on the one- or two-yard line now  
23 and in the next two weeks we are hoping for that dive over  
24 the top.

25 You've seen this map many times before. This was



1 the basis of our application to DWR under Proposition 1E.  
2 We requested funding for Segments 1 and 2 and 3 at Site 7,  
3 which is part of Segment 1.

4 Just previewing for you, later in the  
5 presentation, the response we got from DWR was an interest  
6 and a willingness to fund a portion of Segment 3 and an  
7 interest and willingness to fund a portion of Segment 2,  
8 and a declination or declining by DWR to fund Segment 1  
9 based on the documentation we presented.

10 And so you'll hear that we are going to be  
11 resubmitting documentation as part of the next 1E grant  
12 application process next year. That's not the basis of  
13 our funding, but it is something that we are going to be  
14 doing.

15 So moving on then, let me run you through the  
16 process.

17 We did submit our application by the deadline.  
18 It was April 30th, 2007. We received a response on  
19 August 30th, 2007, actually at nine o'clock at night. I  
20 don't know if the Board members have seen the letter. We  
21 have some extra copies, if you care to, we'll pass them  
22 out. I don't know if we have enough for everyone in the  
23 audience, but I'll summarize for you today what's in the  
24 letter.

25 The letter is from DWR. It does say, as I said,

1 a willingness to fund a portion of Segments 3 and 2, and  
2 I'll get into the details of that in a little while.

3           Following that letter we met with DWR officials  
4 on September 4th. We had a really good, two-,  
5 two-and-a-half-hour meeting going through the details of  
6 how this is going to work.

7           The letter sets out a total project that DWR is  
8 going to work towards with us, which is a \$188.8 million  
9 project, and proposes a State share of \$138.5 million,  
10 which means there is a remaining local share of \$50.3  
11 million.

12           So from a simple mathematical standpoint, you see  
13 that we're looking at -- at about a 30 percent cost share  
14 if you will of the total project that needs to be done  
15 here on the Feather. Again, the number is 188.8 in total,  
16 the State will provide 138.5, and we will provide 50.3.

17           And the last bullet point there was what I said,  
18 Sections 2 and 3 are included, Segments 1 and 7 are not,  
19 but are included in the total cost, meaning we have to  
20 fund that as part of our local share. And then ecological  
21 restoration not funded. Let me spend a minute talking  
22 about that.

23           Our application included some use of the roughly  
24 1,600 acres that are created in the setback area. You'll  
25 recall with the Board we had always said it's really

1 uncertain what will happen with it, DWR will own the land,  
2 they will make the determination; but for budgeting  
3 purposes we have assumed half of the available to continue  
4 farming as a lease arrangement to someone for mitigation  
5 purposes, and the other half will be for restoration. And  
6 that's really what makes this a very attractive project,  
7 not only from a flood control standpoint but from a  
8 environmental standpoint.

9           What DWR said is they agreed completely, 100  
10 percent, but DWR believes that the creation of that  
11 restoration area is an appropriate responsibility of the  
12 federal government. They believe it makes the project a  
13 better project, and when I say "the project" here, I mean  
14 the Yuba Basin project. If you recall, it's the one that  
15 Yuba County Water Agency is the sponsor for. You've  
16 previously approved Section 104 credit letters for.

17           And what they're saying is we think that Yuba  
18 Basin project, which will be Marysville and this  
19 restoration section, is a very attractive project. We  
20 think it has a better chance of being funded by the  
21 federal government if that restoration segment is still  
22 left to be done. And so they said they don't want us  
23 doing it, they don't want the State funding it, they want  
24 to wait and see if the federal government will fund it.  
25 And if the federal government won't, then we will come

1 back and evaluate how it's funded.

2           The key here is it's not really part of our flood  
3 control project. It doesn't have an impact on 200-year  
4 protection or not 200-year protection. And so they are  
5 saying it's not included and it's not funded and it  
6 lowered our total project cost. You may recall our  
7 original project cost was around \$200 million. Now, it's  
8 a 188.8 million, and that \$8 million reduction is the  
9 lion's share of the change.

10           The other detail I'd like to share with you on  
11 this slide is I said Segments 2 and 3 are funded, and you  
12 might ask at what percentages. What the State has said is  
13 that for strengthen-in-place work, such as Segment 3, the  
14 State will fund 70 percent and the locals will fund 30  
15 percent.

16           And for Segment 2, the saved cost, it -- had we  
17 done strengthen-in-place, again, the State will fund 70  
18 percent and the locals will fund 30 percent.

19           As to the incremental cost of the setback levee,  
20 land acquisition, and new construction costs, the State  
21 will fund 95 percent and the locals will fund 5 percent.  
22 So a very favorable cost-sharing arrangement we think. An  
23 appropriate cost-sharing relationship in light of the  
24 significant regional benefits that others get, and DWR has  
25 recognized that and is offering to cover that percentage.

1           So I have lots of additional details on other  
2 pages, but this is a pretty busy page, so I thought I'd at  
3 least pause for a minute and see if we're good with this  
4 one before we go on. Okay?

5           SUBCOMMITTEE MEMBER CARTER:    Question:  Why are  
6 we acquiring all 1,600 acres?

7           MR. SHAPIRO:   I can give you what I think DWR's  
8 answer is.  Ultimately, you need to speak to DWR about it,  
9 because our original plan didn't actually have us  
10 acquiring all that land.  It had us acquiring easements  
11 over it.  And the reaction from DWR's senior manager was  
12 two fold.  One, acquiring all the land creates additional  
13 opportunities for the State in the long run, because if  
14 that land is needed for mitigation, restoration or other  
15 purposes, there isn't a subsequent cost, which when added  
16 to the original cost, is more than the value of the land.

17          Secondly, what DWR said is that where they have  
18 easements over land, it has proven confusing and difficult  
19 at times to manage that land.

20          None of that, however, precludes DWR from wanting  
21 the land to continue to be in agriculture.  And, in fact,  
22 the message that we got when talking to DWR on the 4th  
23 about this \$8 million for restoration, is DWR would like  
24 to see the land remain in agriculture until there's a  
25 particular use of it.

1           MR. REINHARDT: I would like to add one point,  
2 and that's that in our negotiations with the land owners,  
3 and I'll have Bob elaborate on this, but the land owners  
4 that we worked with today weren't interested in retaining  
5 it with the flowage easement, particularly the largest  
6 land owner, which we had been thinking would continue to  
7 operate in agriculture.

8           MR. MORRISON: And there's one clarification.  
9 Just recently one property owner did come forward in the  
10 northern section, and they do want to lease the property  
11 back from us and continue in agricultural operations.  
12 We've had other inquiries in the southern reach as well.

13           So our goal is to -- and it was the Three Rivers'  
14 Board who directed us to continue to keep this area in  
15 agricultural operations as much as possible.

16           So I think we will continue to have a dialog with  
17 DWR, but that's where we received our guidance to purchase  
18 it all in fee and lease it back.

19           MR. SHAPIRO: One other point that I'm reminded  
20 of from Paul is we did the actual estimates for the land  
21 value. The cost to acquire an easement, a flowage  
22 easement across the land was approaching the cost of  
23 acquiring the land in fee. And so when seeing that  
24 comparison, a number of people, including DWR senior  
25 management, said if we're going to pay essentially the

1 same thing to acquire the flowage easement, we should  
2 acquire the land in fee, have more flexibility, and still  
3 encourage agriculture to the extent we don't have another  
4 purpose for the land.

5 SUBCOMMITTEE MEMBER CARTER: So you mentioned  
6 that half of the -- the long-term plan is half in ag and  
7 half in habitat. In the meantime, you have expressed  
8 intent to keep it in agriculture until there's -- that  
9 disposition is arrived at. What's DWR's intention?

10 MR. SHAPIRO: Well, let me break that down.

11 Is there anybody from DWR here that can speak to  
12 that?

13 GENERAL MANAGER PUNIA: I talked to George  
14 Qualley. He's busy because there's a management meeting  
15 going on, but he indicated he has passed the information  
16 to Paul Brunner.

17 MR. SHAPIRO: The original budget was half in ag  
18 and half in restoration. All along our Board has been  
19 favoring leaving as much in agriculture as possible.

20 So your question goes to, well, what's the plan  
21 in the short term. And in our conversation with DWR on  
22 the 4th, we agreed we need to develop a land management  
23 plan for this area. And we are interested in assuring  
24 that land owners' whose land is being condemned have the  
25 first opportunity to lease that, continue to lease that

1 land. And that's a clear direction from our Board.

2 We're also interested, because of direction from  
3 our Board, of trying to create opportunities to lease land  
4 for people that don't want to lease it back, to other  
5 farmers. And we want to make sure that the land doesn't  
6 just become a barren wasteland and antithetical to the  
7 goals we're trying to achieve.

8 So we've agreed to develop a land management  
9 plan. And that was on September 4th, and we haven't sat  
10 down to begin the discussion on the details of it yet.

11 MR. REINHARDT: There's one more element, and  
12 that's the Corps of Engineers Yuba Basin Project. And  
13 that project is looking at flood damage reduction  
14 improvements to the region and ecosystem restoration  
15 opportunities. And so as part of that study, they're  
16 going to make recommendations to Congress on how much of  
17 this land is restored, how much of it is mitigation, how  
18 much of it's in agriculture, and that ratio affects the  
19 viability of there being a federal interest in  
20 participation in the overall project. That study won't  
21 come out until probably the middle of 2009. So I suspect  
22 we're going to be a little bit of working in an interim  
23 basis until the Corps of Engineers comes out with their  
24 recommendations to Congress in that study.

25 MR. SHAPIRO: I guess I have one more



1 observation.

2 I was looking at your September agenda, for the  
3 Rec Board, and you've got four or five agricultural leases  
4 coming up that Jeff Fong's presenting on. When you look  
5 at the crops that are in the setback area, and I know this  
6 only because of my conversation with the Rices, there are  
7 a number of crops in there that really aren't appropriate  
8 in watered areas, and they're just not going to do well.  
9 And so it will be someone's decision whether they want to  
10 lease the land, farm it as long as those trees survive,  
11 recognizing it's not ideal.

12 Other crops are appropriate. And there certainly  
13 are categories of crops that would be appropriate to plant  
14 in that area. Ultimately, this land is owned by DWR, you  
15 as -- excuse me, it's not really owned by the DWR. The  
16 land is owned by the Sacramento-San Joaquin Drainage  
17 District, and the Rec Board sits as the entity that  
18 oversees that District.

19 So just as you have leases that you're dealing  
20 with in September with Jeff Fong, you're going to be the  
21 entity that is going to be actually leasing that land out  
22 unless our land plan has Three Rivers doing it in the  
23 interim of some period of time. And so you'll have a  
24 voice in this conversation as well.

25 SUBCOMMITTEE MEMBER CARTER: Has Three Rivers

1 basically accepted the responsibility of developing the  
2 land management plan?

3 MR. SHAPIRO: I don't think DWR has told us that  
4 they want us to do it or they want to do it. We've said  
5 that's an item for further meeting, and we haven't had  
6 that meeting yet.

7 SUBCOMMITTEE MEMBER DOHERTY: Well, it was my  
8 understanding that Three Rivers would be turned over to  
9 748 or --

10 MR. BRUNNER: 784.

11 SUBCOMMITTEE MEMBER DOHERTY: 784. So would they  
12 then be in charge?

13 MR. BRUNNER: Well, ultimately, the levee  
14 maintenance, that will most likely go to 784, as we  
15 transition, once we complete the levees, unless some other  
16 fate for TRLIA comes up into the future.

17 The land that we're acquiring, the ultimate fate  
18 for the land, will go to the State. We are acquiring it  
19 for them. We're acquiring it in TRLIA's name first, and  
20 there will be this period of time, yet undefined, where  
21 perhaps TRLIA should manage it or maybe the State should  
22 manage it, until the funds come for the restoration system  
23 under some federal system. Or the State re-addresses it  
24 down the road.

25 Ultimately, the land will end up being in farming

1 longer than we anticipated. And we don't have funding to  
2 do a restoration out there right now, so it will stay in  
3 farming and most likely be released back either by TRLIA  
4 or by the State for some farming operation.

5           And further responding to your point of will  
6 Three Rivers hand everything over to 784, there will come  
7 a point where we can question whether 784 needs to  
8 continue to exist. I just want to clarify from a legal --  
9 excuse me, whether Three Rivers should continue to exist.  
10 I just want to clarify from a legal perspective, there are  
11 certain legal obligations and powers that Three Rivers has  
12 that can't go to 784. For example, we have created a  
13 Community Facilities District for funding purposes, which  
14 784 doesn't have the legal authority to have. So some of  
15 what we have will go to the County. Some of what we have  
16 will go to 784.

17           And I think you're raising the question, well, if  
18 we're doing land management, who's going to be in charge  
19 of it? And I think the answer is we haven't faced that  
20 question yet, but it doesn't necessarily mean a levee  
21 maintenance area or district is going to be in charge of a  
22 farming operation.

23           CHAIRPERSON HODGKINS: I think I understood that  
24 some borrow may come from the setback area. Some of that  
25 also could affect the amount of land that's left in

1 agriculture, depending on soil type and how much there is;  
2 is that correct?

3 MR. SHAPIRO: That's correct.

4 I should point out that I've got a number of  
5 additional pages. I wonder if I should keep going through  
6 it, because the questions we're getting may indeed be  
7 answered later on.

8 So let's move to the second page and preview for  
9 you the schedule that was shared with us by the Department  
10 of Water Resources.

11 I'll note that the August 30th letter from  
12 Department of Water Resources speaks of a three-week  
13 deadline for responding with a local plan. And in our  
14 conversation with DWR on the 4th, DWR acknowledged that  
15 that's a somewhat flexible deadline. And we spoke of  
16 being able to submit the week of the 25th so we could have  
17 a Board meeting on the 25th and then get the documents in  
18 after that. And that was agreeable. The Department of  
19 Water Resources will be formalizing that in a letter.

20 So the schedule up here is that we will take  
21 necessary action on the financial plan to demonstrate  
22 local share at the Board meeting on September 25th. And  
23 then we will write up whatever's necessary as a result of  
24 that Board meeting and be submitting the plan on  
25 September 27th or September 28th.

1           DWR predicted it would take two to three weeks to  
2 review the plan; once the plan was reviewed, that it would  
3 take one to two weeks to execute a contract. DWR's  
4 already working on the draft of the contract and has  
5 agreed to share it with us in advance so we can double  
6 track that process and not hold it up.

7           And that means that additional funding from DWR  
8 could occur late November optimistically, but more  
9 realistically early December.

10           So that's the thought -- the time line that we've  
11 talked with DWR about.

12           Moving to the next page, we need to provide the  
13 financial plan. As I've mentioned, the keys to the  
14 financial plan, obviously, is the local share. It's a  
15 plan being prepared jointly by Yuba County, by Three  
16 Rivers and by the land owners, and the developers who have  
17 funded roughly \$80 million thus far.

18           We are putting that plan together using a funding  
19 strategy with a combination of different options. Clearly  
20 it will include some component of capital calls, such as  
21 in the second funding agreement, and monies as paid in the  
22 first funding agreement. We're looking at the possibility  
23 of a Benefit Assessment District or CFD or other mechanism  
24 as a way of backing up those funds and we are also looking  
25 at the possibility of government funds, of Yuba County for

1 example, contributing to the project.

2 We are required to complete a three-year  
3 financial audit for Three Rivers, which has been underway  
4 for several weeks or months now, and will be done in time  
5 as well. It's being completed by a C.P.A.

6 And we're also required to include information on  
7 our current and projected O&M costs where we'll talk about  
8 the current funds that are available, the existing RD74  
9 impact fees that are in place, to result in collection of  
10 funds from new development, as well as a Benefit  
11 Assessment District that we're going to present to our  
12 Board and the Board, we hope, will put out to the public,  
13 which will allow us to raise additional funds for O&M.

14 We have quite a document -- documentation package  
15 to produce here by the end of September. We have to, in  
16 addition to providing the local share information, we are  
17 required to fully document the strategy for 200-year flood  
18 protection. That's relatively easy for our project since  
19 we're on the fourth of four phases.

20 We have to further define the flood risk in the  
21 affected area and provide an acknowledgement via a  
22 resolution of Yuba County. That resolution is actually  
23 attached to the back of the packet if you're curious to  
24 what it looks like. It's just four sentences that would  
25 go in a resolution from Yuba County that would acknowledge

1 that there's less than a hundred year flood protection and  
2 this project will get us to more than a hundred year flood  
3 protection.

4           We're required to document where we are on  
5 permits in environmental compliance. So we will be  
6 documenting that we have almost every permit required at  
7 this point. We'll explain what we've done, and I think  
8 we'll identify that we're -- still have the outstanding  
9 Reclamation Board encroachment permit. We will still have  
10 a 404 permit for the Army Corps of Engineers, a 408 permit  
11 for degradation of the existing levee, and any others that  
12 are still outstanding.

13           And then in addition, later, but prior to the  
14 funding, we need to sit down and have DWR review the  
15 County's emergency response plan, make sure it's adequate.  
16 If it's not, it will be modified. And we've agreed to  
17 provide additional hydraulic modeling that hadn't been  
18 previously provided, which I think is essentially done at  
19 this point.

20           So those are the additional items that we'll need  
21 to be providing.

22           We do have a few concerns with the letter.  
23 Frankly, it's fantastic that almost 70 percent of the  
24 funding available this year would go to this project, and  
25 we're very grateful to DWR for recognizing the opportunity

1 and for being willing to provide \$138 million for this  
2 project. But, frankly, the lateness of the funding is  
3 having an impact on our completion goal. We've been very  
4 upfront with the Rec Board, that every day that passes  
5 with the legislature not passing the budget was an impact  
6 on us. And the fact that now where we are, but we still  
7 have several more weeks to go, is of concern.

8           The letter also provides that cost overruns  
9 beyond the 17 million in contingency we have built in, are  
10 the responsibility of Three Rivers. To phrase it another  
11 way, DWR is not providing additional funds to cover cost  
12 overruns. Having said that, DWR did feel that our --  
13 contingency was an appropriate number based on their  
14 experience and other projects that have gone forward.

15           One of our current issues right now is whether  
16 DWR's funding is a reimbursement program or advance  
17 funding. At the time that we received the letter, DWR  
18 felt that it didn't have the legal flexibility to do  
19 advanced funding. It would have to be a reimbursement  
20 program. And as I think we've shared with you, and as  
21 we've shared with DWR for a year now, we had explained  
22 that you can't fund a \$200 million project with a \$50  
23 million local share as a reimbursement program. No local  
24 agency has that kind of cash to do it.

25           And DWR heard the message, and we've been talking



1 over this last week, and DWR now believes it has  
2 determined a way to provide advance funding, and we're  
3 just waiting on confirmation of that.

4           The letter also identifies that expenses incurred  
5 prior to the agreement being in place are not guaranteed  
6 to be covered. Although in our conversations with DWR, we  
7 feel very confident that those expenses are eligible. We  
8 do, however, need to document them.

9           DWR actually invited us to submit invoices in  
10 advance of the agreement being complete, so that they can  
11 start reviewing the actual invoices and expenses, and we  
12 can be in a very timely reimbursement mode on those  
13 previously incurred expenses. Those expenses would incur  
14 some design work, some land acquisition work, and the  
15 Segment 3 construction work, which is underway right now.

16           Finally, as I've mentioned, and I think we've  
17 talked about extensively, the ecological restoration  
18 funding is not covered. The understanding is DWR's desire  
19 to ensure the federal government participates, but we  
20 would also like to see the project finished and we want to  
21 make sure that that issue doesn't just lag out there.

22           So in summary, we really can't express enough how  
23 thankful we are to receive this grant award, \$138 million  
24 is a lot of money, and we felt this project was deserving  
25 of it, but this is a great validation of that.

1           We are working on the financial plan. We'll be  
2   submitting that the week of September 25th. We will make  
3   sure the Rec Board staff is cc'd on our plan so you're  
4   kept fully updated on that local share plan. We are  
5   anxious to receive that State funding and get to the  
6   eventual goal we've shared with the Rec Board, 200-year  
7   flood protection for Yuba County, south Yuba County, and  
8   to get the benefits of the setback levee.

9           So with that, again, happy to take any questions.

10          CHAIRPERSON HODGKINS: If it's a reimbursement  
11   program, what's the lag between incurring cost and  
12   reimbursement; do you know?

13          MR. BRUNNER: Historically, it's very  
14   significant. We have a history with Prop 13 funds that we  
15   work back and forth on, and historically, on a good day,  
16   it's probably 60 days.

17          CHAIRPERSON HODGKINS: 60 days.

18          MR. BRUNNER: Yes, in our cash flow, by the time  
19   we turn in the submission to the State to pay, it takes  
20   about 60 days for it to process through to get back. We  
21   need to pay very close attention for that, work with the  
22   State to make it happen. If we do not do that and stay on  
23   top of it, then often it is lagged. So in this particular  
24   case we would need to stay in attention.

25          We will try very hard in our agreement with the

1 State, once we turn in our financial plan, to try to get a  
2 specified time for that turnaround. If it stays a  
3 reimbursable program, say on the construction elements of  
4 the project, that we specify a time that they will  
5 respond. The State must dedicate resources to turn those  
6 documents around in reimbursements. We don't have the  
7 asset just to let it lag and let it go. So the State will  
8 have to pay very close attention to this major project to  
9 get those resources to turn around.

10 We would rather have it be 30 days than 60, but  
11 we'll reach an agreement on what that time will be.

12 CHAIRPERSON HODGKINS: Other questions?

13 SUBCOMMITTEE MEMBER DOHERTY: Will the FEMA grant  
14 program be kicking in their additional 2.4 million? You  
15 had 2.3 million came in from the FEMA grant.

16 MR. BRUNNER: Historically, from what we had  
17 shown before?

18 SUBCOMMITTEE MEMBER DOHERTY: Yes.

19 MR. BRUNNER: We did receive the FEMA money  
20 before, and they are -- the FEMA money that I portrayed  
21 before in previous Rec subcommittee meetings, that FEMA  
22 money did come in, and we do have it, and it's included in  
23 our revenues today.

24 SUBCOMMITTEE MEMBER DOHERTY: But you expected an  
25 additional 2.4 million in addition to the 2.3 is what you

1 stated.

2 MR. REINHARDT: This is the Olivehurst Detention  
3 Basin money.

4 MR. BRUNNER: The Olivehurst Detention Basin  
5 money, we have received the FEMA.

6 SUBCOMMITTEE MEMBER DOHERTY: All of it?

7 MR. BRUNNER: All of it.

8 SUBCOMMITTEE MEMBER DOHERTY: So in other words  
9 you received 4.7 million

10 MR. BRUNNER: Yes.

11 SUBCOMMITTEE MEMBER DOHERTY: Okay, all right.

12 And do you have any more capital calls to make?

13 MR. BRUNNER: We have the second capital call  
14 still, money in the escrow account, that's sitting there.

15 And we are developing future escrow accounts based upon  
16 their requirements that have come here.

17 Those capital calls will be spelled out in the  
18 financial plan that we're developing now.

19 GENERAL MANAGER PUNIA: Originally, TRLIA was  
20 planning to award the construction contract for the  
21 setback levee in October. So now the money is not coming  
22 in late November or December, so the schedule is moved.

23 MR. BRUNNER: We have adjusted the schedule.

24 And, Ric, why don't you address that.

25 MR. REINHARDT: Our previous schedule was to

1 award that contract on September 25th. We're unable to do  
2 that for two reasons. First, that we don't believe our  
3 Board is in a position to award it without knowing if the  
4 Reclamation Board is going to grant the permit; and then  
5 second, we won't have an executed contract with DWR on  
6 commitment of funding. So those two things are pushing  
7 the contract back.

8 And our current schedule is to award the  
9 contract, is it the second Tuesday in October, which I  
10 believe is the 15th.

11 MR. BRUNNER: I think that's right, Ric.

12 MR. REINHARDT: It's the 16th, October 16th.

13 We broke the contract up into three different --  
14 well, four different bid schedules. The first is for the  
15 contractor on a time and materials basis to provide input  
16 to us on how we design and construct these in the most  
17 expeditious and cost effective manner possible. We're  
18 very concerned about how we are going to get this full  
19 project constructed in 12 months. So we want to bring  
20 their expertise to the table before we actually start,  
21 especially on the embankment.

22 Schedule B is the foundation contract, the slurry  
23 wall, the preparing of the site. And then Schedule C is  
24 the embankment. And then D is the degradation. Schedule  
25 D is going to be an option that if the Reclamation Board

1 makes a 408 request to the Corps asking for that levee to  
2 be degraded and the project levee reassigned to the  
3 setback levee, after the Reclamation Board's approval and  
4 the Corps' approval, then we would exercise that option.

5           What we want to award on October 15th, at a  
6 minimum is Schedule A, and depending on where we're at  
7 with the Reclamation Board and the Department of Water  
8 Resources, maybe even Schedule B to get started on the  
9 foundation. It's very important that we get started on  
10 that foundation soon so that we don't get into the rainy  
11 season and be stalled for all work.

12           CHAIRPERSON HODGKINS: Ric, the October Rec Board  
13 meeting is the 19th, so you still would award on the week  
14 before then?

15           MR. REINHARDT: At a minimum, we would award  
16 Schedule A, which is for the contractor's input. The cost  
17 of that award is in the tens of thousands of dollars or  
18 maybe even as much as a hundred thousand to get their  
19 input, so it's not a big risk to our Board. So staff  
20 would recommend to the Board that we award in advance of  
21 the regular Board meeting, at least for Schedule A.

22           CHAIRPERSON HODGKINS: Okay

23           MR. BRUNNER: It's important that we get the  
24 contractor on board working with us, because we had  
25 planned to really have the contractor come in, be involved

1 with our design, to make recommendations for cost savings.  
2 And so in that interim period, between A and B, then  
3 they'd have a chance to do that.

4 We really do need a firm commitment on an  
5 agreement to go with Schedule B. I mean, it's a huge  
6 amount to say press ahead, that's the foundation cost,  
7 that we have to press ahead with that.

8 We've done something similar to this on Segment 3  
9 where we did do the award for the project and then we put  
10 language in the contract to make sure that no one -- we  
11 weren't obligated to do the entire project. But we did  
12 award it, the contractor's aware of it. We then issued  
13 notice to proceed based upon money being available.  
14 Something similar probably will happen with this  
15 contract --

16 CHAIRPERSON HODGKINS: Okay.

17 MR. BRUNNER: -- on it, where we know the  
18 contractor, we have it there, we limit our financial  
19 liabilities on it, but we can press ahead and move  
20 forward. And once the money starts to flow, then we'd be  
21 able to award other -- or give notice to proceed to the  
22 next addition, portion of work, and press on.

23 And the key is really for us to get the agreement  
24 done. We now have a new schedule that we gave you. I  
25 mean, we sat here at a subcommittee several months ago and

1 we had a schedule for when the EIP funds were supposed to  
2 come. It's now September, and we are talking about this  
3 schedule.

4           So hopefully we'll work through this quickly and  
5 we get the funds. Major funding from the State is coming  
6 up front for this project. Somewhere between around 85 to  
7 90 percent of the funds that TRLIA will spend in the next  
8 six to nine months are coming from the State. It is  
9 not -- we have transitioned from a local-funded program  
10 for this project to a State-funded project. Key for  
11 turnaround on money and reimbursements and how we are is  
12 key to the success of this project. We need to have the  
13 State funds in place to be able to make this go and make  
14 the awards and go forward.

15           MR. REINHARDT: One other factor that is more  
16 minor, but is certainly affecting the award date is the  
17 Sacramento District Corps of Engineers has not processed  
18 your Section 104 request for this work. And that is a  
19 very important element to the Department of Water  
20 Resources in making sure we secure this Section 104  
21 credit.

22           Both the Department and Yuba County Water Agency  
23 are working closely with the Sacramento District, trying  
24 to get that Section 104 request out to headquarters. Now  
25 ultimately, we don't need that Section 104 request to



1 proceed with the project, but we would forego credit if we  
2 award that contract prior to getting a letter from the  
3 Assistant Secretary of the Army.

4 And what it would require is a congressional fix  
5 in word or something along those lines later on if we did  
6 award the contract without it.

7 CHAIRPERSON HODGKINS: And the main impact of not  
8 getting those is for the subsequent work around Yuba City.

9 MR. REINHARDT: Well, it's actually Marysville.

10 CHAIRPERSON HODGKINS: Marysville.

11 MR. SHAPIRO: There's probably enough Section  
12 104 credit now from all the work that's been done for  
13 Marysville. Speaking as an educated observer, I think the  
14 main impact is on DWR's ability to try to transition the  
15 Section 104 credit to other areas. And that's not allowed  
16 by current law, but could be explored in the future.

17 CHAIRPERSON HODGKINS: Okay.

18 MR. SHAPIRO: Then I saw you --

19 SUBCOMMITTEE MEMBER CARTER: I'm just trying to  
20 reconcile the schedule.

21 I think, Paul, the schedule that you're talking  
22 about, the new schedule, is this one that Scott went  
23 through

24 MR. REINHARDT: Yes.

25 SUBCOMMITTEE MEMBER CARTER: And the reason for

1 not awarding the contract, the two reasons, are that the  
2 DWR agreement in terms of funding and not having a permit  
3 from the Reclamation Board, but you're talking about  
4 asking for, what was it, Section A, Schedule A?

5 MR. REINHARDT: Award Schedule A.

6 SUBCOMMITTEE MEMBER CARTER: Awarding that  
7 contract by October 16.

8 MR. SHAPIRO: And Schedule A because it's  
9 just -- it's not construction. It's just consultation  
10 with the contractor -- would allow us to get all of our  
11 ducks in a row, minimize the cost of the project, and make  
12 the construction as efficient as possible, to get it done  
13 as fast as possible. And that all makes sense to do even  
14 if we don't have a DWR contract or permit yet. It's just  
15 lining everything up. And then getting the permit from  
16 the Rec Board, get the signed contract from DWR, getting  
17 the Section 104 credit allows us to go gangbusters.

18 You know, the pretext here is it's getting more  
19 and more challenging for us to make our 2008 completion  
20 date. We haven't reached the point yet that we can't do  
21 it, but we are really pushing up against the coffin. As  
22 the engineer will remind me, if we have bad weather, it  
23 has a different impact than if we have good weather. And  
24 so we're doing everything we can to stay on schedule.

25 CHAIRPERSON HODGKINS: Okay. So is it fair to

1 say that at this point in time you really don't know if  
2 you can make it by 2008 or not? You're not going to award  
3 the contract to the point where the contractor could go to  
4 work.

5 MR. BRUNNER: I think the answer to the question  
6 is we're going to push really hard to do it. We made  
7 commitments to the public to make 2008, and we are just  
8 going to push hard, and we'll address that when we get  
9 there.

10 MR. REINHARDT: We're getting to the point where  
11 we're largely -- it's going to be a function of how wet,  
12 will we have an early winter, a wet October, November,  
13 December, and then how wet is the spring time. If we can  
14 get an early start, if we can start it in April, I've got  
15 a lot more confidence that we're going to get this program  
16 done in the end of 2008; but if we can't get started until  
17 June or July because we have wet weather all the way up  
18 until then, that's going to be a real problem.

19 One of the things for me personally that I want  
20 to hear from, is I want to get that contractor on board on  
21 October 16th and I want to hear from the contractor how we  
22 can get this done, what can he do, how many headings can  
23 we have. He's the one that's going to be constructing it.  
24 What are his limitations.

25 MR. SHAPIRO: Which is why we're breaking this

1 up into Schedule A and proceeding with that even without  
2 Schedule B as an award at this point.

3 CHAIRPERSON HODGKINS: I mean you can award  
4 Schedule A right now. The constraints wouldn't be any  
5 different than they will be the 12th; but from a practical  
6 standpoint, you want to be dealing with the contractor at  
7 the same time you're trying to deal with DWR. No?

8 MR. BRUNNER: Well, we actually -- the Schedule A  
9 contractor would most likely want to be the contractor  
10 that's going to do the project. So we'd want to get the  
11 bids in.

12 MR. REINHARDT: It will be. We're going to  
13 award -- Schedule A is the contractor that's going to  
14 build this, and the reason we aren't -- the original bids  
15 were supposed to come in on, I think it was, the 21st of  
16 September. We had two contractors who requested more time  
17 to bid the job. Because this is a very complex job,  
18 because we want to make sure that we don't discourage  
19 competitiveness, we allowed that delay. And that's why  
20 we've -- that's part of the reason that we shifted  
21 October 16th, along with the Reclamation Board's delaying  
22 hearing this in a month and DWR delaying entering a new  
23 contract.

24 CHAIRPERSON HODGKINS: Do you have bids?

25 MR. REINHARDT: No, bid closing date was moved

1 to, I think it's, the end of the first week of October.

2 MR. SHAPIRO: And even had we not moved them, we  
3 still wouldn't have bids yet. Bids weren't due in until  
4 mid-September.

5 MR. REINHARDT: 21st.

6 SUBCOMMITTEE MEMBER CARTER: So one of the  
7 reasons that the Rec Board permit is pending is that we're  
8 still waiting for information and staff has to have time  
9 to review that information once they receive it.

10 I assume you're looking for an item on the  
11 agenda, on the regular Board meeting in October. What's  
12 the status of the information that you owe the Rec Board  
13 staff?

14 MR. REINHARDT: We met with staff last week and  
15 we went over all of those items. I think two of the items  
16 are comments from -- probably the two most significant  
17 items are comments from DWR and comments from the Corps,  
18 and I haven't heard from either of them on what the status  
19 of providing the comments are. They, both DWR and the  
20 Corps, know about the deadlines we're working under.

21 SUBCOMMITTEE MEMBER CARTER: Has Rec Board staff  
22 followed up with DWR? Do they know anything about what  
23 their schedule is?

24 GENERAL MANAGER PUNIA: We have. I talked to  
25 George Qualley and others, but we haven't received the

1 comments so far. Steve may have additional information.

2 CHIEF ENGINEER BRADLEY: Steve Bradley, engineer  
3 for the Rec Board.

4 Yeah, we've had one meeting with DWR on this  
5 issue. They've reviewed some of the plans. They are  
6 comfortable with parts, not comfortable with other parts.  
7 We have another meeting scheduled on Monday, this coming  
8 Monday, to go over some more.

9 My understanding, DWR will be at the Board  
10 meeting and make a statement during TRLIA's presentation.  
11 We have not heard anything from the Corps.

12 SUBCOMMITTEE MEMBER CARTER: This is the  
13 September Board meeting?

14 CHIEF ENGINEER BRADLEY: Yes. They will just  
15 come make -- they're going to come and, my understanding,  
16 and make some sort of a statement at that meeting.

17 SUBCOMMITTEE MEMBER CARTER: Are you aware that  
18 they're uncomfortable with some parts of your plan?

19 MR. REINHARDT: They have not conveyed any  
20 information to us.

21 CHIEF ENGINEER BRADLEY: Maybe uncomfortable is  
22 not the right word. They're unsure as to the level of  
23 detail on some things. Some parts are good, some parts  
24 are not.

25 MR. REINHARDT: When we met with them on

1 September 4th, we asked specifically if they had any  
2 information they could provide us now that the letters  
3 were out, and they were not prepared to give us any  
4 comments.

5 SUBCOMMITTEE MEMBER CARTER: Okay. What about  
6 the Corps?

7 CHIEF ENGINEER BRADLEY: I have not heard from  
8 the Corps. I don't know where they are.

9 SUBCOMMITTEE MEMBER CARTER: Okay. We should  
10 probably follow up with the Corps and find out where they  
11 are.

12 GENERAL MANAGER PUNIA: Will do.

13 CHIEF ENGINEER BRADLEY: I believe that's it. I  
14 still owe them a hydraulic, but Ric and I've been over  
15 that. I just have some minor comments on that. I haven't  
16 quite finished it yet.

17 MR. BRUNNER: I'm with Corps and DWR. I know  
18 that we do have our senior consultants meeting, Ric and  
19 the Corps did participate. DWR was fairly silent during  
20 the course of the meeting, but the Corps was there. I  
21 don't remember them raising a lot of concerns during that  
22 discussion.

23 MR. REINHARDT: The most significant comment from  
24 the Corps of Engineers was the levee alignment just north  
25 of Anderson Avenue goes off of the Modesto formation and

1 then comes back on, and they suggested that we move the  
2 alignment to the east, taking more land to get the levee  
3 on Modesto formation.

4 We have not received that comment formally, and  
5 our team is evaluating what would be required to do that  
6 and what would be the schedule implications of making that  
7 change.

8 SUBCOMMITTEE MEMBER CARTER: Steve, once you get  
9 the DWR, Corps' comments, how much time do you need to  
10 formulate a staff for -- and incorporating all the other  
11 stuff that you have to review?

12 CHIEF ENGINEER BRADLEY: Well, typically, just to  
13 be ready for the Board, the packet gets mailed out and  
14 everything, we really need these by around the Board  
15 meeting or shortly thereafter, the September Board meeting  
16 or within about a week after that.

17 SUBCOMMITTEE MEMBER CARTER: So 30 days  
18 before --

19 CHIEF ENGINEER BRADLEY: That's about right.

20 SUBCOMMITTEE MEMBER CARTER: -- it would come  
21 before the Board.

22 CHIEF ENGINEER BRADLEY: Yes. Just by the time  
23 everything gets reviewed, it takes a week to ten days to  
24 get a staff report out, and then you guys get your packet  
25 about ten days prior to that. There's a few days of



1 copying time involved. It's about 30 days ahead.

2           SUBCOMMITTEE MEMBER CARTER:    So DWR is coming to  
3 the Board meeting in September; that's the 30 days, and  
4 they're going to be making comments. I don't know what  
5 the content of those comments are going to be, but if it  
6 requires Three Rivers to go back and do some more stuff,  
7 we're going to be in a tight bind for an October review.

8           CHIEF ENGINEER BRADLEY:   Well, I think we won't  
9 be able to make the October agenda if that's the case.  
10 The big question is, I don't think it's Rec Board staff or  
11 anything, I think it's whatever the Corps, when they  
12 provide us comments, and when DWR provides comments  
13 finally.

14           MR. REINHARDT:   The Corps' comments, as I  
15 understand it, are a requirement that the Reclamation  
16 Board has to have those. I don't know that the same is  
17 true for DWR. That would appear to be more a  
18 discretionary item. They will under their contract, that  
19 we're going to enter in with them, have the opportunity to  
20 require us to revise our project to address any comments  
21 that they have.

22           SUBCOMMITTEE MEMBER CARTER:    I guess the message  
23 is that, I mean, looking at an October Board consideration  
24 for the permit, we have essentially ten days to get all  
25 your ducks in a row and get everything done and comments

1 to the Rec Board staff to make it happen.

2 MR. SHAPIRO: I think we understand the impacts  
3 of the Rec Board's 30-day policy of requiring all  
4 materials to be in. As an applicant waiting on third  
5 parties to submit comments, it's a little bit of an  
6 awkward situation because, you know, we've made  
7 commitments to the public and to you, as Paul said, to get  
8 this project done in 2008, and every day that passes makes  
9 that more and more challenging. And I think all of us  
10 felt that come the October Board meeting, you're in a  
11 position to do what you need to do. We're certainly  
12 pushing as hard as we can without getting people to yell  
13 at us to get comments in.

14 MR. BRUNNER: I'll echo Scott's comments.

15 During the discussion with DWR, during the EIP  
16 discussion period, once we got the letter, we then sat  
17 down and went over the requirements with them. In talking  
18 to the State, with Rod, they were hopeful to come today to  
19 present comments at this meeting, and I guess their  
20 schedules didn't allow them to do that, so they were  
21 close. I mean, we will continue to push working with them  
22 to get their comments, so hopefully with them early,  
23 but -- any -- being a third party for the Corps, DWR, and  
24 pushing, perhaps you all could really encourage them too  
25 and push.

1           SUBCOMMITTEE MEMBER CARTER:    We can.  To the  
2 extent that you can get their comments in the next week  
3 and be prepared to respond to them, either back to them or  
4 respond at the Board meeting appropriately and get it  
5 resolved by then, that will help a lot.

6           If they were prepared to present comments today,  
7 then they've got the comments, they know what they're  
8 going to say.  We ought to encourage them to share that  
9 with us.

10          MR. BRUNNER:  We agree.  We'll respond ASAP to  
11 their comments to work with them.  We understand the  
12 scheduling, and hopefully we're demonstrating that we are  
13 trying to complete the project on schedule and move  
14 forward.

15          CHIEF ENGINEER BRADLEY:  DWR has dedicated to  
16 move some resources to this.  A lot of it's been farmed  
17 out to DOE.  And so at the meeting I attended, they had  
18 really kind of dedicated some more time -- got more  
19 dedicated time from DOE on some of this review, so they  
20 are trying to work this out internally.

21          CHAIRPERSON HODGKINS:  Okay.  DOE is the?

22          CHIEF ENGINEER BRADLEY:  Division of Engineering.

23          CHAIRPERSON HODGKINS:  And DWR.

24          CHIEF ENGINEER BRADLEY:  And DWR, yes.  Because  
25 you're not dealing with engineering, you're dealing with

1 flood management. I mean, that's where the money is  
2 coming from, but they still need other agencies to do the  
3 technical review for them.

4 CHAIRPERSON HODGKINS: Thank you, Steve.

5 All right. I have received cards, a request to  
6 comment from three people, and I think I'll go ahead and  
7 start with the Rices.

8 MR. RICE: Thomas Rice, Rice River Ranch.

9 Ladies and gentlemen, as by now I'm sure you're  
10 very well aware, my concern from the very beginning of the  
11 TRLIA levee work has been to see that we gain efficient  
12 and cost effective public safety, while at the same time  
13 be sure we respect and preserve the value and  
14 contributions of the community.

15 One of the primary areas of contention here has  
16 been the alignment of the setback portion of the Feather  
17 River levee. I firmly believe that had we from the  
18 beginning had a more open, inclusive approach and policy  
19 that truly involved and respected all interested and  
20 likely affected parties, the result could have been a  
21 superior, less destructive and less contentious approach.

22 Indeed, with the data I have seen presented  
23 today, I'm convinced we could have done better. But I am  
24 a reasonable and practical person. And while the  
25 destruction is being caused by the proposed alignment is

1 substantial, we do need to get this levee work done. To  
2 this end, I have continually asked for this Board and for  
3 DWR to assist in having TRLIA truly work with affected  
4 parties, such as Rice River Ranch, to find tolerable and  
5 workable compromised solutions. With your help, such  
6 efforts are finally occurring.

7           In recent weeks TRLIA has been working with us to  
8 find such a solution, and we are very close to an  
9 agreement. Some of that material was presented today, and  
10 I have no material disagreements with what they presented  
11 earlier today. I'll give a moment for that to sink in.

12           We still are working on the details, but we are  
13 very close to an agreement. But time is exceedingly short  
14 to solve this amicably, and now we sincerely need this  
15 Board to continue to strongly request and require TRLIA to  
16 quickly complete this agreement and to hold them  
17 accountable should this compromise not be delivered. We  
18 are very close. We would like to see this solved quickly  
19 and amicably.

20           I will gladly take any questions.

21           CHAIRPERSON HODGKINS: Thank you very much.

22           When are you going to submit that alignment  
23 revision to the Corps?

24           MR. REINHARDT: Scott and I talked about that on  
25 the way up here today. I'm going to put a cover letter on

1 it with -- showing what the differences are with some of  
2 the engineering that went in to support that decision, and  
3 we are going to send that out this week to not only the  
4 Corps but also DWR and, you know, go to the Reclamation  
5 Board staff as well.

6 MR. SHAPIRO: And as the letter to Mr. Rices'  
7 attorney said, upon his and his wife's response to our  
8 offer, we'll take it to our Board and get our Board's  
9 buy-in as well.

10 Procedurally, we want to make sure that the  
11 adjustment and alignment, if signed off by everybody,  
12 doesn't delay the issuance of the Rec Board permit,  
13 presuming you issue a permit in October. And so we'll  
14 need to work with your staff and find out whether it's  
15 best to issue the permit without the alignment adjustment  
16 and then have the general manager adjust the permit after  
17 the Corps says yes, or whether you want to issue a permit  
18 with the adjustment, recognizing that if the Corps says  
19 no, we need to adjust it afterwards.

20 I don't think we have a preference other than we  
21 don't want to slow the permit down, we want to not have to  
22 come back to you repeatedly to implement something we all  
23 want to make work, and so we'd like to talk to your staff  
24 about the best way to make that work.

25 SUBCOMMITTEE MEMBER CARTER: Mr. Rice,

1 specifically, how can the Rec Board help facilitate this  
2 process?

3 MR. RICE: I believe that between discussions we  
4 have had with TRLIA, with BRI, with their directly  
5 involved agencies, we are very close. The areas where we  
6 have risk to sign off on are on your staff looking at this  
7 and saying it's acceptable, on any DWR comments,  
8 especially on any Corps comments.

9 So anything we can do to encourage, as you  
10 mentioned before, tight is tight, third-party comments,  
11 are the risk here. We need to get these things closed  
12 off. We think what we have barely saves our operation, at  
13 the same time just barely stays where you need to for  
14 technical reasons. We're balanced on that knife edge. We  
15 think it works. We need to get these third parties to get  
16 their comments in quickly to finish this.

17 SUBCOMMITTEE MEMBER CARTER: Do you have  
18 anything to add to that or anything else that we can do to  
19 help?

20 MR. SHAPIRO: I agree with Mr. Rice. And the  
21 packet that Ric's going to put together to send to the  
22 Corps and DWR, we're also intending to include the letter  
23 we sent to the Rices that explains our rationale for  
24 making the adjustments so that they can understand the big  
25 picture.

1           SUBCOMMITTEE MEMBER CARTER:    A copy of that goes  
2 to the Rec Board?

3           MR. SHAPIRO:    Yeah.

4           CHAIRPERSON HODGKINS:   The second comment I have  
5 is from Frances Hofman, but I subsequently received a card  
6 from Tom Eres.  Are you both wanting to comment?

7           MR. ERES:   I represent the partnership.  She  
8 represents the individual.

9           CHAIRPERSON HODGKINS:   Okay.

10          MS. HOFMAN:   Are you just taking 3A or are you  
11 taking all of them?

12          CHAIRPERSON HODGKINS:   We're taking all of them.

13          MS. HOFMAN:   Do you want to do them one at a time  
14 or all together?

15          CHAIRPERSON HODGKINS:   I think doing them one at  
16 a time.

17          MS. HOFMAN:   My question is --

18          CHAIRPERSON HODGKINS:   State your name for the  
19 record, please.

20          MS. HOFMAN:   Oh, I'm sorry, sir.

21          My name is Frances Hofman and I own a ranch in my  
22 own name.

23          I'm concerned about the unknown factor of cost of  
24 the land.  I have been to this meeting and I've heard it  
25 very carefully avoided.  The people, some of them, are



1 satisfied with the condemnation, are through the process,  
2 so there's a condemnation. But the other possibility is  
3 some of that land may change hands in the meantime.

4           As I understand, having been through condemnation  
5 several times, that it isn't just the value of the land  
6 today, there's special benefits. I haven't heard but  
7 TRLIA is assessing to that factor. I haven't heard TRLIA  
8 say what percentage of this cost of this \$183 million is  
9 attributed to land, how much is to replacement. I feel we  
10 the people that are in this area -- or I find out now all  
11 of a sudden.

12           When we come to this meeting first, remember  
13 everybody was on cloud number 9 because it wasn't going to  
14 cost anybody locally any assessments, any costs. It was  
15 to be paid out of the building of these homes.

16           Do you know I received a benefit assessment on  
17 Sacramento-San Joaquin flowage expense for the levees, a  
18 survey. I have been, since February, trying to get down  
19 to what it's going to cost, what I'm going to be  
20 benefited, how the assessment is going to work, if I have  
21 to pay for capital costs, operation and maintenance,  
22 environmental. Do you know what I get? You got the  
23 information in February, that's all you're going to get.

24           One way I figure it, I pay \$7 an acre. Another  
25 way I figure it, I pay 150. Another way I figure it I pay

1 a hundred. I have over 700 acres. They say only three  
2 acres applies, but every one of the parcels are listed.

3 I'm asking the Reclamation Board to say, halt,  
4 let the people that's going to have to pay for this --  
5 because your grand statement is that the developers was  
6 going to pay for it all out of the sale of his home, why  
7 did we see this thing, a benefit assessment? The local  
8 share.

9 I believe before anything goes further -- I  
10 understand these people need to be paid for their homes.  
11 But I really -- since I don't benefit from this levee in  
12 any means whatsoever except detrimentally, I don't see any  
13 reason why we're going ahead with the project when we the  
14 people that may have to pay for it have no idea what we're  
15 going to have to pay.

16 Now, to the gentleman that's involved in  
17 condemnation, in your leasing back, as a taxpayer in the  
18 area, what portion of this area that you're leasing back  
19 is covered in your environmental document that doesn't go  
20 for restoration? What percentage does your environmental  
21 document state that we can return to agriculture?

22 MR. MORRISON: Of the 1,500-plus acres that are  
23 in the setback area, roughly half are identified as  
24 agricultural.

25 MS. HOFMAN: No, I'm saying in your environmental

1 document.

2 MR. MORRISON: In the environmental document,  
3 roughly half were identified as agricultural.

4 MS. HOFMAN: And in your environmental document  
5 what was that, where is the location of that half?

6 MR. SHAPIRO: Before we go farther, I have a  
7 request. Can we get a list of all the questions, and then  
8 the Board can indicate whether you want us to answer them  
9 all, instead of a dialog developing between Three Rivers  
10 and the public?

11 STAFF COUNSEL FINCH: This is the public  
12 commentary. It's not question and answer.

13 MS. HOFMAN: It's a comment?

14 STAFF COUNSEL FINCH: It's a comment period.  
15 It's not question and answer.

16 MS. HOFMAN: Well, when do we get the answers?  
17 Because I've been here before and I've never gotten any  
18 answers. That's my problem. I brought the assessment up  
19 the last time we were here and I got no answers. So I'll  
20 bring it up again. When do we -- let me ask a question,  
21 or I'll make a comment.

22 When can we get some answers?

23 This project went from the fact that the people  
24 wasn't going to have to pay for the assessment. We were  
25 told that Three Rivers left this project as soon as the

1 levees was built. Now we have a situation which the  
2 County, Yuba County, not Three Rivers, is involved.

3 My other question in this, as far as this land,  
4 what he's saying is, I would like to know actually what  
5 percentage of this project is for land? I would like to  
6 know, as a farmer in this area, what crops do you expect  
7 to be able to grow there? How many years will these  
8 people that are losing their land will have the first  
9 right of refusal, or is it going to be like Beale Air  
10 Force Base?

11 In your -- I would like to know as a taxpayer of  
12 Yuba County, I would like to know what the estimated cost  
13 is for litigation for condemnation. And I would also like  
14 to know what TRLIA's position is or the Reclamation  
15 Board's position is on benefit assessment for the taking  
16 of agricultural land and the taking of prudential land for  
17 housing.

18 That covers Item A. If you want to go through  
19 them all, that's fine with me or I can come back, one at a  
20 time.

21 CHAIRPERSON HODGKINS: No, I think we can go  
22 through them all.

23 The last question that you addressed to the  
24 Reclamation Board, can you expand on that so we can  
25 understand exactly what the question is?

1 MS. HOFMAN: Well, what I'm saying is, in  
2 condemnation there's a benefit assessment to the benefit  
3 that this levee's supposed to do to your project. I can  
4 see absolutely no benefit for the levee for agriculture,  
5 because I see on the map there's a section, a 784, levees,  
6 presumably I guess it's because agriculture, that they're  
7 only 15- or 25-year levees.

8 So how can you take somebody's farmland and  
9 assess him for a 200-year levee when the rest of your  
10 levees in your district -- is it -- I believe the Chairman  
11 of the Board told me between 15- and 25-year protection.  
12 How can you ask that farmer to have a benefit assessment  
13 against him for an improved levee when part of their  
14 levees in the system are 15 and 25 years where the  
15 Reclamation Board and everybody has said put a 200-year  
16 levee on the other side of me?

17 And the second part of my question, since we're  
18 taking them all, when that 25-year levee fails or a levee  
19 on the Yuba River fails because you've got a 200-year  
20 levee on the other side, who pays the bill?

21 I understand Yuba County stepped up and said  
22 they're responsible. Yuba County don't have that kind of  
23 money. Yuba County, if they're responsible for that, what  
24 is Yuba County's bonding capacity?

25 Proposed alignment. I have went to TRLIA. I

1 have asked their people what the height of the Feather  
2 River levee will be versus what it is today. I got no  
3 answer. I have asked what the capacity of the channel of  
4 the Feather River is below where the Bear comes in. I got  
5 no answer. I asked how much water would be increased  
6 coming out of the Yuba River, because it's -- they're  
7 widening the channel. I was told originally it was  
8 substantial. I don't know what it is now. I've asked the  
9 question.

10 My concern is the fact that we're changing a lot  
11 of the levee and we have all of this, changes. I would  
12 like some factual information instead of being told go  
13 look at the model. My ranch is going to be affected by  
14 it. I believe I have a right to know hard, cold facts. I  
15 look in here, we're still developing studies and we are  
16 leaving -- we're talking about a contractor. I want to  
17 know when we're going to have the final numbers, the final  
18 facts.

19 I would like to know what the environmental  
20 requirements are for your borrow areas. And to the  
21 Reclamation Board, the reason I'm asking these questions,  
22 I have asked these questions of TRLIA, and if I got an  
23 answer, I wouldn't be asking you people for it.

24 Let me ask this question: How are we to know  
25 what the criteria is for benefit assessments for us to

1 pay? I believe before we start a project, we, that may  
2 have to pay for it, should have a right to voice our  
3 opinion. As we all know that this project is increased by  
4 hundreds of millions of dollars.

5 I would also like to know -- we have local share.  
6 I would like to know before this project is started, I  
7 would like to know where that local share is coming from.  
8 I think everybody in Yuba County would like to know. I  
9 don't think it's fair that only part of our levees are  
10 improved to this magnitude and there's a possibility that  
11 the whole county may have to pay. Because I've asked  
12 TRLIA if it could possibly be a county-wide assessment,  
13 and I got no answer.

14 I would also like to know in your area between  
15 the two levees, what will be your crop growing season.  
16 And if the reason that we were told was to increase the  
17 flow of the Feather down through there, what effect will  
18 the tree crops have? And what tree crops can grow in  
19 there that are -- that are not affected by water.

20 The reason I'm coming to the Reclamation Board,  
21 there was a presentation, TRLIA, Yuba County Board of  
22 Supervisors, and RD784 approved financial plans required  
23 by September 25th. Don't you think a taxpayer in Yuba  
24 County should be able to walk up and find out what it is,  
25 since today is September 11th and you go in there and you

1 ask, and you get zilch?

2 I would like to know if this is going to have an  
3 affect on the bonding capacity of Yuba County because of  
4 their guarantee for failure. And I'd also like to know if  
5 in this plan, which Three Rivers was very eloquent, when  
6 they said they had received the lion's share of the money.

7 Is there any possibility the taxpayers in the  
8 other area, if they find out that there was maybe possibly  
9 a cheaper alternative than the full setback levee, files a  
10 taxpayer's lawsuit or some type of litigation, what does  
11 that have to the effect of the funds? I have asked that  
12 of Three Rivers, and I got a laugh.

13 My other question is how do we go from a project  
14 that's supposed to be funded, in the press and in the  
15 statements of the Board of Supervisors, by the developers,  
16 to go to a meeting this late in the day and have a benefit  
17 assessment? A Benefit Assessment District and other  
18 governmental funds, I want to know if any of those are  
19 county funds.

20 Further define flood risk in affected areas and  
21 provide acknowledgement of flood risk via a resolution by  
22 Yuba County. My land's in there; I want to know the  
23 answer. My livelihood is there; I want the answer. I  
24 don't want additional documentation.

25 Permits and environmental compliance



1 documentation. What are they? What are the costs? These  
2 are things we all should have known before we put down the  
3 cost of the project. We should be able to go and ask for  
4 itemization. We should know what's going on. This  
5 project has went up hundreds of millions of dollars.

6           Your restoration fund, from any sources, from  
7 other sources, what are they? Shouldn't we know where  
8 this money's coming from before we go ahead? They're  
9 talking about going ahead. They've had months and months.  
10 They're complaining about the Governor not giving them  
11 money. This wasn't part of the Governor's budget. This  
12 is from other sources. What is it? I mean, if some  
13 millionaire or billionaire is going to go -- like Oprah  
14 Winfrey or somebody's going to come in here and give us  
15 money, fine, but if we the taxpayers have to come up with  
16 it, or we're in the area -- and the other thing, Yuba  
17 County, and maybe the Reclamation Board, ought to stop and  
18 take a look at all of the assets of Yuba Country are tied  
19 up in this project. What about the rest of the levees and  
20 the rest of the County? Because they're agriculture,  
21 because they're not developers there, they're just  
22 supposed to be flooded?

23           Thank you.

24           CHAIRPERSON HODGKINS: I think in -- I'm being  
25 told not to respond by our attorney. I think the response

1 will be a matter of the record figuring out which of these  
2 questions are questions that are within our sphere of  
3 influence. And I think we will provide a written response  
4 to the questions when they are ours. The rest of the  
5 questions are TRLIA questions, and it will be up to TRLIA  
6 as to how you respond to those.

7 All right.

8 MR. SHAPIRO: I think from Three Rivers's  
9 perspective, that makes a lot of sense, and we would also  
10 refer Ms. Hofman back to previous transcripts and records  
11 where many of these questions have been answered,  
12 including the assessment district question about the  
13 survey which was sent out which has been discussed before.

14 MR. BRUNNER: We'll receive the questions and  
15 we'll respond.

16 CHAIRPERSON HODGKINS: Okay. All right. The  
17 third person who wishes to comment is Rex Archer.

18 Mr. Archer.

19 MR. ARCHER: Was Mr. Eres before me?

20 CHAIRPERSON HODGKINS: In terms of the order I  
21 received them, you were third.

22 MR. ARCHER: Thank you, sir.

23 Rex Archer from Linda.

24 Regarding Ms. Hofman's questions that she can  
25 never get answered, no one can get an answer out of TRLIA,

1 a real answer that could go into a court of law or before  
2 a person who lived by the rule of law. And that is  
3 because they have never in their history been audited by  
4 any reputable auditing firm.

5 Today they are being audited by a firm in Yuba  
6 City because they have to be audited before they can get  
7 money from the Department of Water Resources.

8 Now, prior to this, back under Prop 13, that was  
9 Fish and Game tax money, they had no audit at that time,  
10 but yet the State gave them money.

11 So are we for TRLIA or are we just saying the  
12 rule of law does not apply where it applies to everybody  
13 else?

14 Their methods of breaking up levees into five  
15 separate things, is nothing, period, than a thing to  
16 confuse the Rec Board and other people, by saying we work  
17 on this one, we have not worked on this one, we are going  
18 to work on this one. It was a fiasco at the Linda levee,  
19 and now you're doing it again down there.

20 Now, you say because the winter's coming or  
21 whatever, you've had all year to start that A -- or  
22 whatever you call it, 1, Phase 1, Phase 3, Phase 5,  
23 whatever, you've had all that time to do it. It's because  
24 of money.

25 You have -- there's no way that I can see -- and

1 I was a president of corporations and vice president of  
2 corporations -- that any agency, including the State of  
3 California, would trust Three Rivers with the things that  
4 they have said that is not true, it's in public, I put  
5 before this Board and showed you these things.

6 And today I'm standing here wondering why the  
7 State of California is even thinking of giving money to  
8 TRLIA, who has not audited themselves. And the County  
9 auditor cannot audit you, because he pays the bills; but  
10 he told me he advised you, not you, you weren't there,  
11 Mr. Shapiro, but he advised TRLIA to go out and get an  
12 auditor.

13 Now, you've been in business three years. I'm  
14 hanging in on this audit thing because if you don't have  
15 audits, what have you got? Think about it. If you don't  
16 have audits to look at, Ms. Hofman cannot come in and ask  
17 anything because anything that comes out of TRLIA, comes  
18 through the mouth of their attorney, Ric Reinhardt, their  
19 engineer, or Mr. Paul Brunner or Dan Logue. Now, there is  
20 where it comes out of TRLIA, not where, as I requested, an  
21 audit.

22 Now, let's move to the Rec Board. Not only do  
23 they not do audits in Yuba County, they have not given  
24 your Board as-built records as of last week. I don't  
25 know, maybe this week, but for over four years -- three

1 years the Linda Levee has been done, the Interceptor Canal  
2 has been done, the Bear River has been set back, not one  
3 as-built plans -- there's one laying right there  
4 somewhere -- has been given to this Rec Board.

5 Now, without that, that is your audit, I'm not  
6 trying to give you guys -- I'm just upset that this is  
7 going on. But that is your audit, your grade from these  
8 people.

9 They have not sent you that as-built thing.  
10 Unless, and I know you advised them not to talk, but I'd  
11 like to lead just one moment and ask Mr. Punia or Dan Fua,  
12 have you received them in the last week and have you  
13 requested them?

14 STAFF COUNSEL FINCH: You know, this actually is  
15 a public comment period.

16 MR. ARCHER: Thank you. So I can do that.

17 STAFF COUNSEL FINCH: But they won't answer. You  
18 can tell them you want them to check, and they can take  
19 that under consideration.

20 MR. ARCHER: Okay, can I say, and I will say, I  
21 won't say who, but I was told that it's never been  
22 received by your Board. Okay? That's a fact. It's  
23 approved. It's Rex Archer standing here saying it.

24 Now, if you did not give them an as-built record  
25 of the levees that you've built, the only way we have of

1 knowing if you've really done anything on those levees is  
2 through your word -- your mouth, because you are their  
3 speaker now. They just hired you to combat people like  
4 me. But now, how do you expect us to believe any of you  
5 when you have no audits? You can't say we don't do  
6 audits. You can't say it. And some of you don't like to  
7 hear this because this is hard, but I have unraveled more  
8 wrong things than this, and I'm going to unravel more.

9 Any questions?

10 I know you're stunned and you don't want to open  
11 your mouths when I give you the heavy stuff like this.  
12 But I'm telling you, Mr. Carter, you know me, Mr. Shapiro,  
13 you know, keep your mouth -- very good, Mr. Shapiro.

14 STAFF COUNSEL FINCH: Actually, this is the  
15 public comment period where you comment.

16 MR. ARCHER: Yes.

17 STAFF COUNSEL FINCH: And it's not question and  
18 answer. And I apologize for that, but --

19 MR. ARCHER: Thank you, ma'am.

20 But the problem is this affects thousands of  
21 people below the Linda Levee.

22 It's going to come out in the next few days. And  
23 there's movements in Sacramento to remove the Rec Board.  
24 Three members of it for sure, but the Rec Board, and  
25 replace it with the California Flood Control System, which

1 will be a new board. It's been approved and it's on its  
2 way now. And it will be a nine-member board, and it will  
3 be awful hard to find three members to push through  
4 programs that certain entities want. And it's hard to  
5 get, but I'm getting it slowly.

6 Thank you

7 CHAIRPERSON HODGKINS: All right. Thank you.

8 Last we will take comments from -- at least the last card  
9 I have is Mr. Tom Eres.

10 MR. ERES: Good afternoon. Tom Eres representing  
11 Hofman Ranch, California general partnership.

12 First of all, some compliments. My comments are  
13 really directed to Item 3C. And I want to thank you,  
14 Scott, for the candor with which you tee'd up all of these  
15 slides, because it helps us who are trying to get our arms  
16 around some of the complex issues that you're dealing  
17 with, and I would commend to the Board that they take a  
18 look at these very, very carefully.

19 I want to summarize some of them. I will not  
20 repeat what has already been stated, if my memory serves.

21 First of all, a little bit of a, shall we say,  
22 difference of opinion with respect to fact finding. My  
23 understanding is this is a subcommittee of the Board. It  
24 is charged with fact finding and making recommendations to  
25 the Board. My gray hair comes from fact finding being a

1 two-way street. And you can't obtain facts if you have  
2 them all channeled under one source and there's not an  
3 ability for dialogue.

4           So I thank you, sir, for your comments to the  
5 extent that questions can be answered by the Board staff  
6 and to the extent Three Rivers, you cannot provide answers  
7 to the questions that have been posed. I think that's  
8 very helpful for us. But I do think fact gathering is not  
9 just simply a point in public comment without there being  
10 any dialogue back and forth.

11           My comments to the Subcommittee really deal with  
12 one word, feasibility. It's one of the themes that we've  
13 had all the way through the process on behalf of Hofman  
14 Ranch. And I'm concerned. I liked your football example,  
15 except I turned off the dog-gone TV set last night just a  
16 little too early on the 49er game. I would suggest you're  
17 on the 50 yard line, you're in the fourth quarter, you've  
18 got about a minute and you're not leading. And the reason  
19 I say it that way is because I think much of what we're  
20 dealing with here is market driven. There's going to have  
21 to be a way of getting funding in order to drive the rest  
22 of your project, and I'm concerned about the feasibility  
23 of being able to find that funding.

24           And I urge the Board to make sure as you're going  
25 through your deliberations, your due diligence with your



1 staff, that you make sure that we're not dealing here with  
2 an awful lot of aspiration, well meaning though it might  
3 be, to get the money that's going to be necessary to drive  
4 the train.

5           Unless I'm mistaken, you're going to have to  
6 provide some insurances that are bankable to the  
7 Department of Water Resources, the State of California,  
8 that you have that matching fund before you're going to be  
9 able to turn the spigot loose in terms of that of which  
10 you have been allocated or granted.

11           I would suggest that there also ought to be some  
12 assumptions made that perhaps the notion of any federal  
13 interest being generated in your project is probably, in  
14 my view, very illusory, and I think it ought to be looked  
15 at with a high degree of skepticism. So to the extent  
16 that there's going to be some sort of a funding source  
17 from that, I would cause pause.

18           You've heard me speak on the 408 permit  
19 requirement many times. I'm still very frustrated about  
20 how this project is being put together, so that the idea  
21 here is you avoid a 408 by virtue of putting what is  
22 basically a backup levee, and that at some point in time  
23 you hope you're going to be able to get a 408 permit and  
24 you're going to be able to get it in a way, I guess you  
25 can incorporate by reference all the environmental stuff

1 that's gone on. But what happens if you don't get a 408  
2 permit? And at that stage of the game has this all been a  
3 very worthwhile project to no practical effect other than  
4 you would have a very large backup levee.

5 I think these are reasonable questions, they are  
6 important questions, and I'm -- I think that as you go  
7 through your deliberations, you need to look at those, in  
8 my view, very, very carefully.

9 I'm concerned in the EIP concerns that you have  
10 in your chart. Those are all outstanding concerns, and I  
11 really hope that the Board will take a long, hard look at  
12 them, satisfy yourselves before you get to the point of  
13 making any decisions on this permit.

14 Cost overruns, up-front funding, expenses that  
15 have been incurred and not guaranteed to be covered, and  
16 when I see things like ecological restoration funding from  
17 other sources, other sources not identified, I get  
18 concerned as to is that again an aspiration to find money  
19 at some point in time.

20 With respect to local documentation, I'm not sure  
21 on the point where it says, "...further define flood risk  
22 in affected area and provide acknowledgement of flood risk  
23 via resolution by the County." I don't know what that  
24 means. I'm not sure what the acknowledgement of flood  
25 risk is. So maybe that's a Three Rivers' question, maybe

1 it's a Reclamation Board question, but I think it needs to  
2 be addressed. What are we talking about?

3 One of my other favorite topics, as you know, is  
4 hydraulic, hydraulic modeling. My eyes cross when I get  
5 to 3D, 4D, and 12D modeling. I'm very concerned about the  
6 design capacity for the Yuba, Feather and Bear and the  
7 implications of the Western Pacific backup.

8 I still don't know if we're dealing with 120,000  
9 cubic feet per second for the Yuba, 300,000 cubic feet per  
10 second for the Feather and 40,000 cubic feet per second  
11 for Bear. And if all those come together and you do the  
12 kind of setback levee that you're talking about, how the  
13 hydraulics -- and I know, Ric, this is an area where you  
14 feel very comfortable. I don't. And I keep trying to  
15 talk to other engineers to get more satisfaction that the  
16 hydraulics of this have been worked out, and I think it's  
17 a -- in my view, it's as much a cotter pin to this entire  
18 project and its feasibility as anything else.

19 With respect to the local share status, I know a  
20 comment was made about a financial plan being prepared,  
21 and it says prepared jointly by Yuba County, Three Rivers,  
22 and the land owners. I know I can't ask you questions. I  
23 don't know what land owners you're talking about. Are you  
24 talking about those in the Plumas Lakes' specific plan,  
25 are you talking about those in 784, are you talking about

1 those in Yuba County? And if you use the term "regional  
2 value" of all of this, is there any outside Yuba County  
3 group of land owners that have somehow been identified who  
4 will participate in how this financial plan is going to  
5 work?

6           Because I'm very concerned about when you start  
7 looking at capital calls, that's market driven; and when  
8 you take a look at a Benefit Assessment District, who,  
9 what, why, where, when? And how is that going to be  
10 handled by voters, and are the people who are going to be  
11 voting for that, going to be the same people who are  
12 consulted when the financial plan was put together? This  
13 can be a little bit of a Gordian knot, and we understand  
14 what the requirements are for getting these things  
15 qualified on a ballot.

16           I want to echo Mr. Archer's comments on the  
17 audit. And you don't have to respond, Scott, but my  
18 recollection was, and it's probably not correct, is the  
19 Joint Power Agreement with Three Rivers, the County and  
20 784 required annual audits. That's my recollection, you  
21 might want to check it.

22           I've been checking to find out if there have been  
23 any audits. I can't find that there have been any audits.  
24 And I think it's critical in terms of a check and balance  
25 and how Three Rivers has performed to date in order to

1 ascertain what the confidence is in the Board under  
2 feasibility for cost overruns, the ability to provide for  
3 them, and be in a position where you have the kind of  
4 flexibility that you need.

5 I'm also concerned that we are not really aware  
6 yet when you build it, how are you going to maintain it?  
7 And under local share status, it says information on  
8 current and projected O&M costs. This gets back into just  
9 exactly what district is going to be used in order to take  
10 care of this thing in perpetuity and how are they going to  
11 pay for it and by what device are the taxpayers going to  
12 agree to do it.

13 So again, when you go to something that is as  
14 elegant as this full setback levee, I think there's some  
15 hidden gremlins out there that can clearly go bump in the  
16 night.

17 The costs are jumping around, I respect Scott's,  
18 with respect to that. I know when I first got the word  
19 that you got your grant of 138.5 million, but that was  
20 less than we had hoped you would get -- and I understand  
21 that. And we can say it's great we got it. It's better  
22 than nothing. But when you look at what this thing's  
23 going to cost and how you're going to maintain it, I'm  
24 very concerned as to what is the local share.

25 At one point the paper called it 63 million. I

1 understand -- I think what you said about it maybe being  
2 scaled down, but what scales down sometimes gets scaled  
3 up. That's why we have the world of change orders. And  
4 I'm not exactly sure what that local share is going to be,  
5 and again, I'm not sure, and I direct this to the -- to  
6 the Subcommittee as to exactly what is going to be  
7 required by the State to assure that local share is, in  
8 fact, a bankable commitment in some fashion. And what is  
9 the security for the bankable commitment? Is it going to  
10 be real property owned by someone that's going to be  
11 pledged for some bonds that are going to be issued under  
12 some sort of a district?

13           And finally, I would indicate that I appreciate  
14 that this project has been underway for some time, but I  
15 am concerned, as President Carter was stating, that as  
16 we're getting into the time crunch here, I always get  
17 concerned about momentum becoming the driver in order to  
18 get decisions made because there's so many things at risk.

19           And I'm a reasonable, prudent, one-step-at-a-time  
20 kind of guy. And while I understand there will be a lot  
21 of urging on the needs, the needs to move the project  
22 along, I hope that with the comments made here and the  
23 excellent presentation that was made, particularly in the  
24 3C area, there's a lot of stuff here. I don't see how it  
25 can be handled in the time frame that you want to have it

1 handled.

2           And I suggest that it needs to be done with  
3 deliberation, and not that anybody would try to quote,  
4 "jam the process," but as you look at the amount of  
5 material that you put out today, there's opportunity there  
6 for trying to create this sort of a pressure pot that is  
7 going to be, I'm afraid, urged on the Board to say we've  
8 got to act now. If we don't, we won't make 2008. And if  
9 we don't do that, something, something, something and  
10 something. Well, let's do it right, because once it's  
11 approved and built, it's going to last way beyond all of  
12 us in this room, I hope, if it doesn't fail, but I won't  
13 go into all the levees will fail at some point.

14           I thank you for the courtesy to address you.

15           CHAIRPERSON HODGKINS: Thank you. Are there any  
16 other comments that anybody wishes to make?

17           Okay. Then any further questions from Board  
18 members?

19           SUBCOMMITTEE MEMBER CARTER: I have some.

20           CHAIRPERSON HODGKINS: Mr. Carter.

21           SUBCOMMITTEE MEMBER CARTER: I apologize for  
22 being tardy.

23           I do have one question for Mr. Morrison on his  
24 presentation. On your background slide, the first slide,  
25 you talk about 1,749 acres, 206 within the levee

1 footprint, and 1,543 in the setback area. How many of  
2 those 1,749 acres are being acquired under the due  
3 condemnation process? How many parcels does that involve,  
4 and how many owners does that involve?

5 MR. MORRISON: Well, in terms of, there are 37  
6 parcels total, and there are 25 owners that are affected  
7 as a whole. We have not made offers on a number of the  
8 parcels to date because we're waiting for funding. And  
9 one of the things we did provide as part of the handouts  
10 was a detailed spreadsheet that highlights the parcel size  
11 and then where we are in terms of acquisition.

12 So we've looked at Reach 1, which was, again,  
13 north of Ella, and focused our efforts in that area, and  
14 are two of the properties there, property 90 and 93, did  
15 go to condemnation. And it wasn't over necessity. They  
16 weren't opposed to the project, they were opposed to the  
17 price.

18 We have a signed right of entry from one property  
19 owner who owns two parcels, that's 84 and 85. And then  
20 there's another property owner who has agreed to what they  
21 call a friendly condemnation, in that they approved of the  
22 project. They, again, don't feel comfortable with the  
23 price at this point. So we have gone to eminent domain,  
24 or resolution of necessity on those, but we have not --  
25 we're continuing to negotiate. And the Rices are a key



1 example of that. We did go to a resolution of necessity  
2 with the Rices, but we've continued to negotiate. And as  
3 Mr. Rice highlighted, we look forward to reaching some  
4 form of settlement here in the very near future.

5           The remainder of the parcels, you'll see a big  
6 blank sheet, and that is related to the fact that we have  
7 not been able to make offers. It was a direction of our  
8 Board not to make an offer unless there was money behind  
9 that offer, and that's where we've gone through a lot of  
10 the funding issues here. And hopefully those will be  
11 wrapped up in the very near future and we'll begin  
12 negotiations in earnest directly after that. That hasn't  
13 stopped us from meeting with property owners, and  
14 highlighting that, yes, if you'd like, we can continue the  
15 agricultural operations in the setback area.

16           SUBCOMMITTEE MEMBER CARTER: So let me try and  
17 locate myself then. In terms of the project, we always  
18 talk about Segment 1, 2 and 3. Segment 1 being on the  
19 south, 2 being setback section, and 3 being the north.

20           MR. MORRISON: Vice versa. Sorry.

21           SUBCOMMITTEE MEMBER CARTER: So Segment 1 is in  
22 the north --

23           MR. MORRISON: No, Segment 3.

24           SUBCOMMITTEE MEMBER CARTER: Oh, I'm sorry.  
25 You're correct. Okay.

1 Does your spreadsheet refer to the same reaches  
2 then?

3 MR. SHAPIRO: No, reaches are different than  
4 segments.

5 SUBCOMMITTEE MEMBER CARTER: I'm sorry.

6 MR. SHAPIRO: Reaches are within Segment 2.

7 SUBCOMMITTEE MEMBER CARTER: So all of this is  
8 within Segment 2?

9 MR. SHAPIRO: Correct.

10 MR. MORRISON: Correct.

11 MR. SHAPIRO: It is the way we have subdivided  
12 the setback segment, which is Segment 2, to make it  
13 manageable bites and to phase how we're doing land  
14 acquisition to coordinate with how we're going to do  
15 construction.

16 SUBCOMMITTEE MEMBER CARTER: So essentially  
17 you've gone through resolution of necessity and an eminent  
18 domain process on three of the 37 parcels.

19 MR. MORRISON: Correct.

20 SUBCOMMITTEE MEMBER CARTER: And you have 17  
21 borrow sites that are within the setback area?

22 MR. MORRISON: That have been identified.  
23 They're not necessarily in the setback area. Those are  
24 borrow sites that we're investigating and negotiating with  
25 property owners. Our goal through that is to reach a

1 willing selling, willing buyer transaction.

2           SUBCOMMITTEE MEMBER CARTER:    So that's in  
3 addition to the 37.

4           MR. MORRISON:   Correct.

5           SUBCOMMITTEE MEMBER CARTER:    So we're talking  
6 about 54 --

7           MR. MORRISON:   Of the 17 that are listed here,  
8 that are being investigated, up to eight may be acquired  
9 for borrow.

10          SUBCOMMITTEE MEMBER CARTER:    So you're looking  
11 for eight.

12          MR. SHAPIRO:    And because the fact that  
13 different parcels are different sizes, it's up to eight.

14          MR. MORRISON:   It could be much less.

15          SUBCOMMITTEE MEMBER CARTER:    Okay.   What do you  
16 anticipate in terms of these 37 parcels and those eight  
17 for borrow sites, what do you anticipate the process to  
18 look like going forward as far as acquisition?

19          MR. MORRISON:   Once we receive funding -- the  
20 appraisals are already sitting on Paul's desk.   So once we  
21 receive the funding, Paul will sign the letter saying go  
22 forward with the acquisition.   We'll begin negotiations in  
23 earnest with the property owners.   And our goal is to  
24 settle with the majority of the property owners, because  
25 we've been in constant contact with them.   But similar to

1 Mr. Rice, you know, we need to understand their  
2 operations, and those discussions have been ongoing now  
3 for six months as to what their operational concerns are,  
4 and refining that and making sure they meet what the  
5 concerns of the levee are.

6           You know, I would say we would continue to  
7 negotiate for an additional 30 days and then potentially  
8 go forward with the resolution of necessity, if necessary,  
9 sometime in the middle of the fall timeline.

10           SUBCOMMITTEE MEMBER CARTER: I appreciate your  
11 willingness to work with the land owners. I think that is  
12 very, very important to the success of this project from a  
13 practical, physical, and a political perspective. I  
14 appreciate your renewed or, in some cases, new efforts to  
15 try and understand the considerations and walk in the  
16 local land owner's shoes. And I encourage you to continue  
17 that and actually redouble your efforts in that regard.  
18 So I'm looking for some more improvement in the future.

19           So that takes care of Segment 2. What about 1  
20 and 3?

21           MR. MORRISON: Segment 1, as stated, won't be  
22 constructed this year. Segment 3, we have already  
23 acquired all the rights necessary to begin construction.  
24 We did go to eminent domain on two parcels, or two  
25 property owners, excuse me. In that situation we were

1 able to settle with one property owner. It was over  
2 price, and that was a pretty nominal value. The remaining  
3 property, we continue to negotiate with, and that's over  
4 price as well and it's not related to necessity.

5 So there's one property owner we're continuing in  
6 negotiations with out of roughly 20 property owners that  
7 we've acquired rights from to do the work.

8 MR. SHAPIRO: And if I can add a little context  
9 around that. And, Bob, correct me if I get the details  
10 wrong, Segment 3, which is the northernmost segment, is a  
11 strengthen-in-place construction project. So the issues  
12 of acquisition relate to staging for our equipment and  
13 relate to any areas where we didn't have the necessary 10-  
14 or 15-foot easement as required under State and federal  
15 law. So that's the limit of the interest we're seeking to  
16 acquire there.

17 On Segment 1, the southern most, the Rec Board's  
18 direction to us when we received the permit was acquire  
19 50-foot easements, but let's allow agriculture to continue  
20 to operate within a certain range. And the details of  
21 that range are to be developed by your staff and the  
22 Department of Water Resources Right of Way. And so we're  
23 looking for that language, and that's when we will go  
24 forward with the land owners.

25 MR. MORRISON: Exactly.

1           SUBCOMMITTEE MEMBER CARTER:   All right.

2           MR. MORRISON:  There's an iterative phase between  
3  Three Rivers right-of-way staff and Rec Board staff on  
4  what will be allowed in that 50-foot corridor.

5           SUBCOMMITTEE MEMBER CARTER:  All right.  Thanks.

6           CHAIRPERSON HODGKINS:  Any other questions?

7           MR. SHAPIRO:  I just wanted to say that Three  
8  Rivers will go back and we'll review our notes on the  
9  public comment.  To the extent that there's anything that  
10 we feel that we haven't previously addressed, we'll  
11 provide supplemental information to the Board.  My  
12 perception is much of it has been addressed in previous  
13 meetings or in other statements that we've issued.  If  
14 there are things in there that have generated questions on  
15 your part, please communicate those to us, and we're happy  
16 to answer them.

17          CHAIRPERSON HODGKINS:  Thank you.  If there are  
18 no further comments, the meeting is adjourned.

19          (Thereupon the Reclamation Board TRLIA

20          Subcommittee Meeting was adjourned at 3:21 P.M.)

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## 1 CERTIFICATE OF REPORTER

2  
3 I, JAMES F. PETERS, a Certified Shorthand Reporter of  
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